

Proposed Revisions

to the

Alabama State Implementation Plan

Alabama Department  
of Environmental Management  
Air Division

Post-Adoption Submittal of Revisions to  
Chapters 335-3-10, -11, -14, -15, -16, and  
Appendices D and G of the ADEM Division 3  
Administrative Code

Public Hearing - October 14, 1993

Volume I



P-8-72

# Volume I

**Part A – Environmental Management Commission Resolution**

IN WITNESS WHEREOF, we have affixed our signatures below on  
this 23 day of November, 1993.

Stanley D.

Clair B. Eckert

Ronald W. White

R. A. White Jr.

Cameron Lowell

W. David Miff

Richard E. Brown MD



ENVIRONMENTAL MANAGEMENT COMMISSION  
RESOLUTION

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to Administrative Code Division 335-1, General Administration Regulations 335-1-6 and -7; Administrative Code Division 335-3, Air Program Regulations Chapters 335-3-10, -11, and -14; and Appendix D and G of the Administrative Code for Division 3 and the adoption of Chapters 335-3-15 and -16 in accordance with Code of Alabama 1975, §§ 22-22A-8 and 41-22-4; and

WHEREAS, a public hearing was held before a representative of the Alabama Department of Environmental Management designated by the Environmental Management Commission for the purpose of receiving data, views and arguments on the amendment of such proposed rules; and

WHEREAS, the Alabama Department of Environmental Management has reviewed the oral and written submissions introduced into the hearing record, and has prepared a concise statement of the principal reasons for and against the adoption of the proposed rules incorporating therein its reasons for the adoption of certain revisions to the proposed rules in response to oral and written submissions, such revisions, where appropriate, having been incorporated into the proposed rules attached hereto; and

WHEREAS, the Environmental Management Commission has considered fully all oral and written submissions respecting the proposed amendments and the Reconciliation Statement prepared by the Alabama Department of Environmental Management.

NOW THEREFORE, pursuant to Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, and 41-22-5, as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to Administrative Code Division 335-1, General Administration Regulations 335-1-6 and -7; Administrative Code Division 335-3, Air Program Regulations Chapters 335-3-10, -11, and -14; Appendix D and G of the Administrative Code for Division 3 and the adoption of Chapters 335-3-15 and -16 attached hereto; and to become effective thirty-five days after filing with the Alabama Legislative Reference Service.

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**Part E** - Legal Authority

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**Part H** - Original Proposal of Revisions and Additions to ADEM Administrative Code 335-3.

**Part I** – Proposal Revised in Response to Comment

**VOLUME II**

**Part J** – Public Comment and State Response

**Part K** – Final Regulations filed with the Legislative Reference  
Service

**Part L** – Appendix containing applicable Federal Regulations proposed  
for inclusion by reference in Chapters 335-5-10 and -11.

**Part B** – Certificate of Administrative Rules filed with Agency Secretary

# ADEM

## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT



Leigh Pegues, Director

Mailing Address:  
PO BOX 301463  
MONTGOMERY AL  
36130-1463

Physical Address:  
1751 Cong. W. L.  
Dickinson Drive  
Montgomery, AL  
36109-2608

(205) 271-7700  
FAX 271-7950  
270-5612

Field Offices:

110 Vulcan Road  
Birmingham, AL  
35209-4702  
(205) 942-6168  
AX 941-1603

400 Well Street  
P.O. Box 953  
Decatur, AL  
35602-0953  
(205) 353-1713  
AX 340-9359

2204 Perimeter Road  
Mobile, AL  
36615-1131  
(205) 450-3400  
FAX 479-2593

### CERTIFICATE OF ADMINISTRATIVE RULES FILED WITH THE AGENCY SECRETARY FOR THE PURPOSES OF § 41-22-6 THE ALABAMA ADMINISTRATIVE PROCEDURES ACT

Pursuant to the requirements of § 41-22-6 of the Alabama Administrative Procedures Act, I do hereby certify that the attached copies of the ADEM Administrative Code Division 335-1-6 and 335-1-7 of the General Administration Regulations and 335-3-10, 335-3-11, 335-3-14, 335-3-15, 335-3-16, Appendix D and Appendix G of the Air Pollution Control Program Regulations are correct copies as promulgated and adopted by the Environmental Management Commission on the 23rd day of November, 1993.

### ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

The attached are amendments to Division 335-1-6 and 335-1-7 of the ADEM General Administration Regulations and Division 335-3-10, 335-3-11, 335-3-14, 335-3-15, 335-3-16, Appendix D and Appendix G of the ADEM Air Pollution Control Program Regulations.

Statutory Authority: Code of Alabama, 1975 §§ 22-22A-5, 22-22A-6, 22-22A-8 and 22-28-14.

DONE this 23rd day of November, 1993.

  
Leigh Pegues, Director  
Alabama Department of  
Environmental Management



**Part C – Certificate of Administrative Rules filed with the Legislative  
Reference Service**

# ADEM

## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Leigh Pegues, Director



### CERTIFICATE OF ADMINISTRATIVE RULES FILED WITH THE LEGISLATIVE REFERENCE SERVICE JERRY L. BASSETT, DIRECTOR

Mailing Address:  
PO BOX 301463  
MONTGOMERY AL  
36130-1463

Physical Address:  
1751 Cong. W. L.  
Dickinson Drive  
Montgomery, AL  
36109-2608

(205) 271-7700  
AX 271-7950  
270-5612

(Pursuant to Code of Alabama 1975, § 41-22-6, as amended).

I do hereby certify that the attached are correct copies of rules as promulgated and adopted on the 23rd day of November, 1993, and filed with the agency secretary on the 23rd day of November, 1993.

AGENCY NAME: ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

XXXXXX Amendment;            New;            Repeal;  
(Mark appropriate space)

#### Field Offices:

10 Vulcan Road  
Birmingham, AL  
35209-4702  
(205) 942-6168  
AX 941-1603

400 Well Street  
O. Box 953  
Ecatur, AL  
35602-0953  
(205) 353-1713  
AX 340-9359

2204 Perimeter Road  
Mobile, AL  
36615-1131  
(205) 450-3400  
FAX 479-2593

Rule No. 335-1-6

Rule Title: Application Fees

Rule No. 335-1-7

Rule Title: Air Division Operating Permits Fees

Rule No. 335-3-10

Rule Title: Standards of Performance For New Stationary Sources

Rule No. 335-3-11

Rule Title: National Emissions Standards for Hazardous Air Pollutants

Rule No. 335-3-14

Rule Title: Air Permits

Rule No. 335-3-15

Rule Title: Synthetic Minor Operating Permits

Rule No. 335-3-16

Rule Title: Operating Permits for Major Sources

Rule No. Appendix D

Rule Title: Nonattainment Areas



Rule No. Appendix G

Rule Title: Hazardous Air Pollutants

ACTION TAKEN: State whether the rule was adopted with or without  
changes from the proposal due to written or oral comments.


Amendments to Chapters 335-3-14 through 16  
and Appendix G  
were adopted with  
changes from the proposed.

Amendments to Chapters 335-1-6 and 7, Chapters 335-3-10 and 11,  
and Appendix D  
were adopted without  
changes from the proposed.

NOTICE OF INTENDED ACTION PUBLISHED

IN VOLUME XI, ISSUE NO. 11, AAM, DATED 8/31/93.

Statutory Rulemaking Authority: Code of Alabama 1975, §§ 22-22A-5,  
22-22A-6, 22-22A-8 and 22-28-14.

  
Olivia H. Jenkins  
General Counsel and  
Agency Secretary





**Part D – Notice of Rulemaking Hearing and Sworn Statement of Director of  
Administrative Procedure Division of the Legislative Reference  
Service**

**Alabama Department of Environmental Management  
Environmental Management Commission**

**Notice of Rulemaking Hearing**

Chapter 335-1-6  
Application Fees

Chapter 335-1-7  
Title of Chapter: Air Division Operating Permits Fees

Chapter 335-3-10  
Standards of Performance for New Stationary Sources

Chapter 335-3-11  
National Emissions Standards for Hazardous Air Pollutants

Chapter 335-3-14  
Air Permits

Chapter 335-3-15  
Synthetic Minor Operating Permits

Chapter 335-3-16  
Operating Permits for Major Sources

Appendix D  
Nonattainment Areas

Appendix G  
Hazardous Air Pollutants

The Alabama Department of Environmental Management (ADEM) is proposing to adopt revisions to the ADEM Administrative Code for General Administration (335-1-7) and for the Air Division (335-3). The proposed changes to Chapter 335-3-6 will revise the requirements for application fees for Air Permits. The proposed changes to 335-1-7 include the revision of regulations requiring operating permit fees for major stationary sources of air pollution. The revisions to Chapter 335-3-10 include the incorporation of recently promulgated federal standards (New Source Performance Standards) into the ADEM Air Pollution Control Rules and Regulations. The revisions to Chapter 335-3-11 include the incorporation of new National Emissions Standards for Hazardous Air Pollutants which have been promulgated by the federal government into the state regulations. Chapter 335-3-14 will be revised and updated. Chapter 335-3-15 will be added in order to update the regulations regarding the permitting of minor sources of air pollution. Chapter 335-3-16 will be added to the regulations as mandated by the Clean Air Act of 1990, and will contain provisions for the issuance of operating permits for major sources of air pollution. Appendix D will be revised to reflect the redesignation to

attainment for status for the National Ambient Air Quality Standard for sulfur dioxide in Colbert and Lauderdale Counties. Appendix G will be added to the regulations and will contain a list of hazardous air pollutants that will be subject to regulation in the near future under Section 112 of the CAAA of 1990.

Copies of the proposed rules and a summary of reasons supporting their adoption are available for inspection or can be purchased (\$10.00) at each of the following locations.

ADEM, Office of the General Counsel  
1751 Cong. W. L. Dickinson Drive  
Montgomery, AL 36130  
(205) 270-5606

ADEM, Field Office  
110 Vulcan Road  
Birmingham, AL 35209  
(205) 942-6168

ADEM, Field Office  
2204 Perimeter Road  
Room 210  
Mobile, AL 36615  
(205) 479-2336

ADEM, Field Office  
400 Wells Street,  
Decatur, AL 35602  
(205) 353-1713

Copies of the proposed rules and a summary of reasons supporting this adoption are also available for inspection at the following locations:

Southeast Alabama Regional Planning &  
Development Commission  
Intersection of Ross Clark Circle & Highway 431  
Suite 207, Plaza 2  
Dothan, AL 36303

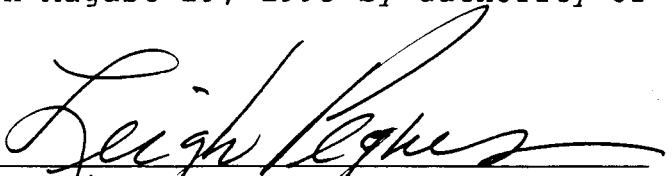
East Alabama Regional Planning &  
Development Commission  
1130 Quintard Avenue  
Anniston, AL 36201

Alabama-Tombigbee Rivers Planning &  
Development Commission  
Courthouse Annex  
Water Street  
Camden, AL 36726

A public hearing will be held at 10:00 a.m. on October 14, 1993 in the Hearing Room of the Department of Environmental Management, 1751 Cong. W. L. Dickinson Drive, Montgomery, Alabama to receive data, views, or arguments from interested persons regarding the proposed rules. Attendance at the hearing is not necessary to present such data, views, or arguments as the same may be submitted in writing, but must be received by the Hearing Officer prior to 5:00 p.m. on October 21, 1993. Written submissions and other inquiries should be directed to: Tommy E. Bryan, Hearing Officer, Office of General Counsel, Alabama Department of Environmental Management, P.O. Box 301463 Montgomery, AL 36130-1463.

Any person wishing to participate in this hearing who needs special accommodations should contact Marilyn Elliot, (205) 271-7715, at the Alabama Department of Environmental Management, Montgomery, at least two working days prior to the hearing.

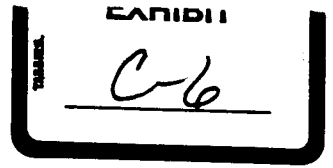
This notice is hereby given on August 29, 1993 by authority of ADEM.



---

Leigh Pegues, Director  
Alabama Department of Environmental  
Management

STATE OF ALABAMA )  
MONTGOMERY COUNTY)

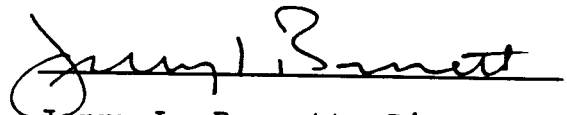


Jerry L. Bassett, being duly sworn, deposes and says:

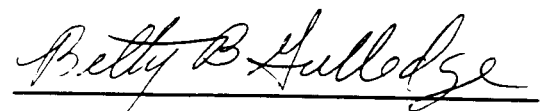
1. That he is Director of the Legislative Reference Service and the Administrative Procedure Division.

2. That the attached "Notice of Rulemaking Hearing" (Chapters 335-1-6, 335-1-7, 335-3-10, 335-3-11, 335-3-14, 335-3-15, 335-3-16, Appendix D and Appendix G) was filed with the Administrative Procedure Division of the Legislative Reference Service on August 20, 1993, and was published in the Alabama Administrative Monthly (Volume XI, Issue 11) on August 31, 1993.

3. That three copies of each of the attached proposed revisions to the ADEM Admin. Code Rules for General Administration (335-1) and for the Air Division (335-3) were filed with the Administrative Procedure Division of the Legislative Reference Service on August 20, 1993 and twenty-two copies (22) copies thereof were furnished to the Joint Committee on Administrative Regulation Review by its designated agent, the Administrative Procedure Division of the Legislative Reference Service, on August 31, 1993.

  
Jerry L. Bassett, Director

Sworn and subscribed to before me this 12<sup>th</sup> day of October, 1993.

  
Notary Public

**Part E – Legal Authority**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

1421 PEACHTREE ST., N. E.  
ATLANTA, GEORGIA 30309

January 30, 1974

Mr. James W. Cooper, Director  
Division of Air Pollution Control  
Alabama Air Pollution Control Commission  
645 South McDonough Street  
Montgomery, Alabama 36104

Dear Mr. Cooper:

On January 2, 1974, Governor Wallace informed the Administrator that your agency has the authority to prepare and submit any revisions made to the Alabama Air Implementation Plan.

With this letter I make formal acknowledgement of your authority. Moreover, I thank you for your cooperation in the past, and look forward to the continuation of smooth working relations between your agency and my Air Programs Office.

Sincerely,

*for John C. White*  
Jack E. Ravan  
Regional Administrator

RECEIVED

FEB 1 - 1974

Alabama Air Pollution Control  
Commission

DLC

1	8	eb
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**Part F - Copies of Public Notices**



# The Birmingham News

# Birmingham Post-Herald

Alabama Department of  
Environmental Management  
Environmental Management  
Commission  
Notice of Rulemaking Hearing  
Chapter 335-1-6  
Application Fees  
Chapter 335-1-7  
Operating Permits  
Chapter 335-1-10  
Standards of Performance for  
New Stationary Sources  
Chapter 335-1-11  
National Emissions Standards  
for Hazardous Air Pollutants  
Chapter 335-1-14  
Air Permits  
Chapter 335-1-15  
Synthetic Minor Operating Per-  
mits  
Chapter 335-1-16  
Operating Permits for Major  
Sources  
Appendix D  
Nonattainment Areas  
Appendix G  
Hazardous Air Pollutants  
The Alabama Department of  
Environmental Management  
(ADEM) is proposing to adopt  
revisions to the ADEM Adminis-  
trative Code for the General Ad-  
ministration (335-1-7) and for the Air  
Division (335-3). The proposed  
changes to Chapter 335-3-6 will  
revise the requirements for  
application fees for Air Permits.  
The proposed changes to 335-1-  
10 include the revision of regu-  
lations requiring operating permit  
fees for major stationary  
sources of air pollution. The revisions  
to Chapter 335-3-10 include  
the incorporation of recently  
promulgated federal standards  
(New Source Performance  
Standards) into the ADEM Air  
Division Control Rules and  
Regulations. The revisions to  
Chapter 335-3-11 include the  
incorporation of new National  
Emissions Standards for Haz-  
ardous Air Pollutants which have  
been promulgated by the federal  
government into the state regu-  
lations. Chapter 335-1-14 will be  
revised and updated. Chapter  
335-3-15 will be added in order to  
update the regulations regarding  
the permitting of minor sources  
of air pollution. Chapter 335-3-16  
will be added to the regulations  
as mandated by the Clean Air  
Act. Chapter 335-3-17 will contain  
provisions for the issuance of  
operating permits for major  
sources of air pollution. Appendix  
D will be revised to reflect the  
redesignation to attainment for  
status for the National Ambient  
Air Quality Standards for sulfur  
dioxide in Colbert and Lauderdale  
Counties. Appendix G will be  
added to the regulations and will  
contain a list of hazardous air  
pollutants that will be subject to  
regulation in the future under  
Section 112 of the CAAA of  
1990.

1990. A summary of the proposed rules and a summary of reasons supporting their adoption are available for inspection or can be purchased (\$10.00) at each of the following locations:

ADEM, Office of the General Counsel  
1751 Cons. W. L. Dickinson Drive  
Montgomery, AL 36130  
(205) 270-2100

ADEM, Field Office  
2204 Perimeter Road  
Room 210  
Mobile, AL 36615  
(205) 479-2336

ADEM, Field Office  
110 Vulcan Road  
Birmingham, AL 35209  
(205) 942-6168

ADEM, Field Office  
400 Wells Street  
Decatur, GA 30602  
(205) 353-1713

Copies of the proposed rules and a summary of reasons supporting this adoption are also available for inspection at the following locations:

Southeast Alabama Regional Planning & Development Commission  
Intersection of Ross Clark Circle & Highway 43  
Suite 207, Plaza 2  
Dothan, AL 36303

East Alabama Regional Plan-

On this 31<sup>st</sup> day of August  
A.D. one thousand nine hundred and NINETY-THREE

a Notary Public in and for the County and State aforesaid  
JEAN SMITH

who being duly sworn according to law, declares that he  
is BOOKKEEPER

of "The Birmingham News" and "The Birmingham Post Herald", newspapers published in the City of Birmingham, in the County of Jefferson, State of Alabama, and that the advertisement, a true copy of which is herewith attached, appeared in "The Birmingham News" and "~~The Birmingham Post-Herald~~" on the following dates:

Signed J. L. an Smith

Subscribed and sworn to before me this 31<sup>st</sup> day  
of August A.D. 1993

**Notary Public.**

MY COMMISSION EXPIRES JULY 22, 1995

any hearing will be held at the hearing room of the Department of the Interior, on October 17, 1993 in the hearing room of the Department of Environmental Protection, 1571 Congress W. Building, 15th Floor, Montgomery, Alabama. Any person wishing to participate in this hearing who needs special accommodations should contact Marilyn E. Elliott, (205) 271-7715, a Department of Environmental Management, Montgomery, Alabama, on working days prior to the hearing, at least two days. This notice is hereby given on October 27, 1993 by authority of the

ADMINISTRATIVE



# The Advertiser Company

P.O. BOX 1000 MONTGOMERY, AL 36101-1000

## INVOICE AND STATEMENT

37237-4

ADEM

ATTN: MARILYN ELLIOTT

1751 CONG W.L. DICKINSON DR.

MONTGOMERY, AL 36130

31-

Please Return Copy of Invoice With Payment

DATE	DESCRIPTION
8-29-93	1 Cols x 219 lines x 1 times @ 1.05 per line MONTG ADVERTISER 8-29-93 Ad Number: 437328 RULEMAKING HEARING

**PAY THIS AMOUNT**

STATE OF ALABAMA

I, The Undersigned Having Been Duly Sworn, Deposes and says That the Advertising Services Have Been Rendered by The Advertiser Company, Publishers of The Montgomery Advertiser and The Alabama Journal in Accordance With the Accompanying Invoice and Statement.

By

*Mary D. Thomas*

, Bookkeeper

Subscribed and Sworn to Before Me This 31<sup>st</sup> day of August, 1993.

By

*Li Ann Milner*

, Notary Public

Alabama Department  
of Environmental  
Management  
Management Commission

### Notice of Rulemaking Hearing

Chapter 335-1-6  
Application Fees

Chapter 335-1-7  
Title of Chapter: Air  
Division Operating  
Permits Fees

Chapter 335-3-10  
Standards of Performance  
for New Stationary Sources

Chapter 335-3-11  
National Emissions  
Standards for Hazardous  
Air Pollutants

Chapter 335-3-14  
Air Permits

Chapter 335-3-15  
Synthetic Minor  
Operating Permits

Chapter 335-3-16  
Operating Permits for  
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Appendix D  
Nonattainment Areas

Appendix G  
Hazardous Air Pollutants

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Copies of the proposed rules and a summary of reasons supporting their adoption are available for inspection or can be purchased (\$10.00) at each of the following locations.

ADEM, Office of the  
General Counsel  
1751 Cong. W.L.  
Dickinson Drive  
Montgomery, AL 36130  
(205) 270-5606

ADEM, Field Office  
2204 Perimeter Road  
Room 210  
Mobile, AL 36615  
(205) 479-2336

ADEM, Field Office  
110 Vulcan Road  
Birmingham, AL 35209  
(205) 942-6168

ADEM, Field Office  
400 Wells Street  
Decatur, AL 35602  
(205) 353-1713

Copies of the proposed



## PAY THIS AMOUNT

I, Mary D. Thomas, Bookkeeper, do hereby certify that the foregoing has been duly sworn, deposes and says that the Advertising Services have been rendered by the Montgomery Advertiser and The Alabama Journal in accordance with the invoice and statement.

Subscribed and sworn to before me this 31th day of August, 1993.  
Edwin Milnes, Notary Public

be added to the regulations and will contain a list of hazardous air pollutants that will be subject to regulation in the near future under Section 112 of the CAAA of 1990.

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 2204 Perimeter Road  
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 Mobile, AL 36615  
 (205) 479-2336

ADEM, Field Office  
 110 Vulcan Road  
 Birmingham, AL 35209  
 (205) 942-6168

ADEM, Field Office  
 400 Wells Street  
 Decatur, AL 35602  
 (205) 353-1713

Copies of the proposed rules and a summary of reasons supporting this adoption are also available for inspection at the following locations:

Southeast Alabama Regional Planning & Development Commission  
 Intersection of Ross Clark Circle & Highway 431  
 Suite 207, Plaza 2  
 Dothan, AL 36303

East Alabama Regional Planning & Development Commission  
 1130 Quintard Avenue  
 Anniston, AL 36201

Alabama-Tombigbee Rivers Planning & Development Commission  
 Courthouse Annex  
 Water Street  
 Camden, AL 36726

A public hearing will be held at 10:00 a.m. on October 14, 1993 in the Hearing Room of the Department of Environmental Management, 1751 Cong. W. L. Dickinson Drive, Montgomery, Alabama, to receive data, views, or arguments from interested persons regarding the proposed rules. Attendance at the hearing is not necessary to present such data, views, or arguments as the same may be submitted in writing, but must be received by the Hearing Officer prior to 5:00 p.m. on October 21, 1993. Written submissions and other inquiries should be directed to: Tommy E. Bryan, Hearing Officer, Office of General Counsel, Alabama Department of Environmental Management, P. O. Box 301463 Montgomery, AL 36130-1463.

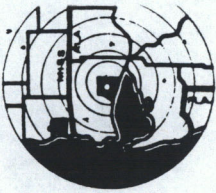
Any person wishing to participate in this hearing who needs special accommodations should contact Marilyn Elliott, (205) 271-7715, at the Alabama Department of Environmental Management, Montgomery, at least two working days prior to the hearing.

This notice is hereby given on August 29, 1993 by authority of ADEM.

Leigh Pegues, Director  
 Alabama Department  
 of Environmental  
 Management

Montg. Adv. 8/29/93  
 437328





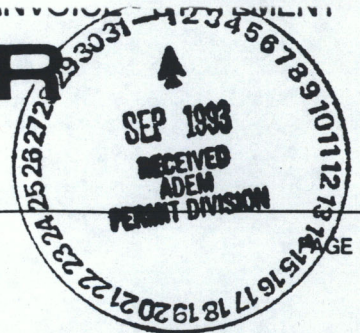
the Mobile

## PRESS REGISTER

MORNING

EVENING

SUNDAY

ACCOUNT NO. 2717700ADE  
PERIOD END 08/30/93NAME ADEM  
REP. 25

BILL TO SAME

QUESTIONS PLEASE CALL 205-433-1511

ADEM  
1751 CONG. W. L. DICKINSON DR.  
ATTN: MARILYN ELLIOTT

\* CURRENT BALANCE

MONTGOMERY, AL 36130

\* AMOUNT ENCLOSED

\* PLEASE RETURN SECOND COPY WITH  
YOUR PAYMENT TO THE  
MOBILE PRESS REGISTER  
LOCK BOX 1712  
MOBILE, ALABAMA 36601

TERMS: DUE ON RECEIPT

REFERENCE NUMBER	DATE	DESCRIPTION OR TAG LINE	RATE INCH/CPM	SIZE OR # PG	CHARGE CREDITS	AMOUNT DUE
T02KD1R	08/29/93	RULEMAKING/ALABAMA DEP	638	1CH	44.66	44.66
STARTED 08/29 TIMES RUN= 1:WORD- PER AD= 638 0						
BRENDA CHRISTIAN BEING SWORN, SAYS THAT SHE IS BOOKKEEPER OF THE MOBILE PRESS AND THE MOBILE REGISTER, DAILY NEWSPAPERS PRINTED AND PUBLISHED IN THE CITY AND COUNTY OF MOBILE, STATE OF ALABAMA: AND THE ATTACHED NOTICE APPEARED IN THE ISSUE OF THE MOBILE REGISTER AUGUST 29, 1993						
SWORN TO AND SUBSCRIBED BEFORE ME THIS 30TH DAY OF AUGUST 1993						
NOTARY PUBLIC						
FOR QUESTIONS CONCERNING THIS INVOICE OR ANY OTHER LEGAL ADVERTISING PLEASE CONTACT VICKI BARNETT AT 205-433-15408						

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT  
Environmental Management Commission  
NOTICE OF RULEMAKING HEARING

Chapter No. 335-1-4 -- Application Fees  
Chapter No. 335-1-7 -- Air Division Operating Permits Fees  
Chapter No. 335-3-10 -- Standards of Performance for New Stationary Sources  
Chapter No. 335-3-11 -- National Emissions Standards for Hazardous Air Pollutants  
Chapter No. 335-3-14 -- Air Permits  
Chapter No. 335-3-15 -- Synthetic Minor Operating Permits  
Chapter No. 335-3-16 -- Operating Permits for Water Bodies  
Appendix G -- Hazardous Air Pollutants

ADEM Field Office, 400 West Street, Decatur, AL 35601, 252/253-1713  
Copies of the proposed rules and a summary of reasons supporting their adoption are also available for inspection at the following locations:  
Southeast Alabama Regional Planning & Development Commission, Intersection of Ross Clark Circle and Highway 491, Suite 207, Plaza 2, Decatur, AL 35603  
Alabama Regional Planning and Development Commission, 1130 Gulfport Avenue, Anniston, AL 36201  
Alabama Department of Environmental Management, 1751 Street Community Center, Anniston, AL 36201  
A public hearing will be held at 10:00 a.m. on October 14, 1993, in the hearing room of the Department of Environmental Management, 1751 Street Community Center, Anniston, AL 36201, for the purpose of receiving comments from interested persons regarding the proposed rules. Attendance at the hearing is not necessary if the same may be submitted in writing, but must be received by the Hearing Officer prior to 5:00 p.m. on October 21, 1993. Written submissions and other resources should be directed to Tommy E. Bryant, Chief of General Counsel, Alabama Department of Environmental Management, P. O. Box 30143, Montgomery, Alabama 36108-1443.

Any person wishing to participate in this hearing who needs special accommodations should contact Marilyn Elliott, (205) 271-7700, of the Alabama Department of Environmental Management, Montgomery, at least two working days prior to the hearing.  
This notice is hereby given on August 29, 1993, by authority of ADEM.

s/LEIGH PEGUES, Director  
Alabama Department of  
Environmental Management

R05, Aug. 27, 1993

CONTINUED NEXT PAGE



Alabama Department of Environmental Management  
Environmental Management Commission

Notice of Rulemaking Hearing  
Chapter 335-1-6

Application Fees  
Chapter 335-1-7

Title of Chapter: Air Division  
Operating Permits Fees

Chapter 335-3-10

Standards of Performance for  
New Stationary Sources

Chapter 335-3-11

National Emissions Standards  
for Hazardous Air Pollutants

Chapter 335-3-14

Air Permits

Chapter 335-3-15

Synthetic Minor Operating  
Permits

Chapter 335-3-16

Operating Permits for Minor  
Sources

Appendix D

Nonattainment Areas

Appendix G

Hazardous Air Pollutants

The Alabama Department of Environmental Management (ADEM) is proposing to adopt revisions to the ADEM Administrative Code for General Administration (335-1-7) and for the Air Division (335-3). The proposed changes to Chapter 335-3-6 will revise the requirements for application fees for Air Permits. The proposed changes to 335-1-7 include the revision of regulations requiring operating permit fees for major stationary sources of air pollution. The revisions to Chapter 335-3-10 include the incorporation of recently promulgated federal standards (New Source Performance Standards) into the ADEM Air Pollution Control Rules and Regulations. The revisions to Chapter 335-3-11 include the incorporation of new National Emissions Standards for Hazardous Air Pollutants which have been promulgated by the federal government into the state regulations. Chapter 335-3-14 will be revised and updated. Chapter 335-3-15 will be added in order to update the regulations regarding the permitting of minor sources of air pollution. Chapter 335-3-16 will be added to the regulations as mandated by the Clean Air Act of 1990, and will contain provisions for the issuance of operating permits for major sources of air pollution. Appendix D will be revised to reflect the redesignation to attainment for status for the National Ambient Air Quality Standard for sulfur dioxide in Colbert and Lauderdale Counties. Appendix G will be added to the regulations and will contain a list of hazardous air pollutants that will be subject to regulation in the near future under Section 112 of the CAAA of 1990.

Copies of the proposed rules and a summary of reasons supporting their adoption for inspection or can be purchased (\$10.00) at each of the following locations.  
ADEM, Office of the General Counsel  
1751 Cong. W. L. Dickinson Drive

Montgomery, AL 36130

(205) 270-5606

ADEM, Field Office

2204 Perimeter Road

Room 210

Mobile, AL 36615

(205) 479-2336

ADEM, Field Office

110 Vulcan Road

Birmingham, AL 35209

(205) 942-6168

ADEM, Field Office

400 Wells Street

Decatur, AL 35602

(205) 353-1713

Copies of the proposed rules and a summary of reasons supporting this adoption are also available for inspection at the following locations:

Southeast Alabama Regional Planning & Development Commission

Intersection of Ross Clark Circle & Highway 431

Suite 207, Plaza 2

Dothan, AL 36303

East Alabama Regional Planning & Development Commission

1130 Quintard Avenue

Anniston, AL 36201

Alabama-Tombigbee Rivers Planning & Development Commission

Courthouse Annex

Water Street

Camden, AL 36726

A Public hearing will be held

at 10:00 a.m. on October 14,

1993 in the Hearing Room of

the Department of Environmental

Management, 1751

Cong. W. L. Dickinson Drive,

Montgomery, Alabama to receive

data, views, or arguments from

interested persons regarding the

proposed rules. Attendance at the

hearing is not necessary to present

such data, views, or arguments as

the same may be submitted in writing,

but must be received by the Hearing

Officer prior to 5:00 p.m. on

October 21, 1993. Written submissions

and other inquiries should be directed to:

Tommy E. Bryan, Hearing Officer, Office

of General Counsel, Alabama Department

of Environmental Management, P.O. Box

301463, Montgomery, AL

36130-1463.

Any person wishing to participate

in this hearing who needs special accommodation

should contact Marilyn Elliott, (205) 271-7715, at the

Alabama Department of Environmental

Management, Montgomery, at least two

working days prior to the hearing.

This notice is hereby given

on August 29, 1993 by authority of

ADEM.

LEIGH PEGUES, Director Alabama

Department of Environmental

Management.

Aug. 29, 1993

## STATE OF ALABAMA) MADISON COUNTY)

Before me, Kenneth R. Faulk a Notary Public in and for said State and County, personally appeared Ginger Parsons, known to me, who being by me first duly sworn, deposes and says she is Legal Advertising Manager of The Huntsville Times, a newspaper published and printed at Huntsville, Madison County, Alabama, and that the attached legal notice was published in said newspaper on

Aug 29, 1993

Ginger Parsons  
Legal Advertising Manager

Sworn to before me this the

9<sup>th</sup> day of Sept, 1993

Kenneth R. Faulk  
Notary Public

My commission expires May 11, 1997

**Part G** – Summaries of Reasons Supporting Revisions to Chapters 335-3-10,  
-11, -14 and Appendix D and Addition of Chapters 335-3-15 and  
-16 and Appendix G

**Summary of Reasons  
Supporting Adoption of Revisions to the  
Alabama Department of Environmental Management's  
Administrative Code  
New Source Performance Standards**

Revision of Chapter 335-3-10 - Standards of Performance for New  
Stationary Sources (NSPS)

EPA has set emission standards, notification and testing procedures, and monitoring requirements for a number of individual industrial or source categories such as portland cement plants, steam generators and sulfuric acid plants. Standards of performance are not intended to achieve any specific air quality level. Instead, they are designed to reflect best demonstrated technology (taking into account costs) for the source in question.

New source performance standards apply only to stationary sources that are constructed, modified or reconstructed after a relevant standard has been proposed. The establishment of new source performance standards is an ongoing process. In August 1978, EPA published a list assigning priorities to 72 categories of sources for which new standards eventually would be developed. As soon as new standards are proposed, facilities planning construction, reconstruction, or modification must comply.

ADEM incorporates by reference the federal Standards of Performance for New Stationary Sources (NSPS) into the Department's Air Regulations. This incorporation allows the Environmental Protection Agency (EPA) to delegate administration enforcement of these regulations to ADEM.

EPA also reviews its promulgated NSPS regulations periodically and makes revisions to the regulations or test procedures as technology advances. This revision by EPA subsequently requires ADEM to revise its existing regulations as well as adopt new NSPS categories promulgated by EPA in order to keep ADEM's NSPS delegation current.

ADEM proposes to revise Chapter 335-3-10 to incorporate the rules listed below which have been promulgated by EPA since the last rulemaking procedure.

<u>Subparts</u>	<u>Federal Register</u>	<u>Type Revision</u>	<u>Date</u>
UUU	57 FR 44496	New Rule	9/28/92
UUU	58 FR 40591	Correction	7/29/93
Appendix A	57 FR 24550	Correction	6/10/92
Appendix A	57 FR 30654	Amendment	7/10/92



**Summary of Reasons  
Supporting Adoption of Revisions to the  
Alabama Department of Environmental Management's  
Administrative Code  
Air Division Operating Permit Fees**

**Chapter 335-3-11 - National Emission Standards for Hazardous Air  
Pollutants (NESHAPS)**

EPA has established emission standards, monitoring and testing requirements and reporting tasks for sources of specific hazardous air pollutants. EPA has established NESHAPS for eight (8) pollutants; beryllium, mercury, vinyl chloride, arsenic, benzene, radon-222, radionuclides, and asbestos. NESHAPS applies to both existing and new sources.

As with NSPS, the establishment of National Emission Standards for Hazardous Air Pollutants (NESHAPS) is an ongoing process. Pollutants are first established as being hazardous and then standards are established for the various sources of these pollutants.

ADEM incorporates the federal NESHAPS regulations by reference. This incorporation allows EPA to delegate administration and enforcement of these regulations to ADEM.

ADEM proposes to revise Chapter 335-3-11 to incorporate corrections, revisions, and additions listed below which have been promulgated by EPA since ADEM's last revision was adopted by the Commission.

<u>Subparts</u>	<u>Federal Register</u>	<u>Type Revision</u>	<u>Date</u>
FF	58 FR 3072	New Rule	1/07/93



**Summary of Reasons  
Supporting Adoption of Revisions to the  
Alabama Department of Environmental Management's  
Administrative Code 335-3  
Air Permitting Procedures**

Revision of Chapter 335-3-14 Air Permits  
Addition of Chapter 335-3-15 Synthetic Minor Operating Permits  
Addition of Chapter 335-3-16 Operating Permits for Major Sources  
Addition of 335-3 Appendix G List of Hazardous Air Pollutants

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Included in these amendments were the Title V requirements for a nation-wide Operating Permits program for major air emission facilities. Each state was mandated by Title V to promulgate regulations that create Operating Permit programs. These programs must be based on regulations developed by the Environmental Protection Agency that provide the minimum requirements for these programs.

The purpose of this rulemaking is to incorporate these new federal permitting requirements into the existing permitting requirements found in ADEM Admin. Code R 335-3. The addition of Chapter 16 and Appendix G were designed to meet these new federal requirements. The addition of Chapter 15 and the revision to Chapter 14 are necessary to modify the existing permitting system to be compatible with the new federal requirements.

**Summary of Reasons  
Supporting Adoption of Revisions to the  
Alabama Department of Environmental Management's  
Administrative Code  
Nonattainment Areas**

Revision of 335-3-Appendix D Nonattainment Areas

Appendix D of the Air Rules and Regulations is proposed for revision due to the redesignation of the Colbert-Lauderdale County nonattainment area to attainment status by the Environmental Protection Agency. The notice of this redesignation was published in the Federal Register on January 12, 1993, effective March 15, 1993.

**Part H – Original Proposal of Revisions and Additions to ADEM  
Administrative Code 335-3.**

## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

## Air Division

Chapter 335-3-10  
Standards of Performance for New Stationary Sources

## Table of Contents

335-3-10-.01	General
335-3-10-.02	Designated Standards of Performance
335-3-10-.03	Appendices
335-3-10-.04	Word or Phrase Substitutions

335-3-10-.01 General.

(1) The Environmental Protection Agency Regulations, and the Appendices applicable thereto, governing Standards of Performance for New Stationary Sources (40 CFR 60 and Appendices) designated in Rules 335-3-10-.02 and 03 are incorporated by reference as they exist in 40 CFR 60 ~~(1990)~~ (1992), 57 FR 30654 (July 10, 1992), 57 FR 44496 (September 28, 1993), and 58 FR 40591 (July 29, 1993) 56 FR-12299-(March-22,-1991)-and-56-FR-20497-(May-3,-1991), as amended by the word or phrase substitutions given in Rule 335-3-10-.04. References for specific documents containing the complete text of subject regulations are given in Appendix C to these Regulations.

The materials incorporated by reference are available for purchase and inspection at the Department's offices at 1751 Cong. W. L. Dickinson Drive, Montgomery, Alabama 36109.

(2) Chapters 335-3-3, -4, -5, -6, -7, and -8 shall not apply to source categories subject to this Chapter for the specific pollutants to which a standard under this Chapter applies.

(3) Definitions. For purposes of this Chapter, the definitions listed in 40 CFR 60.2 will apply.

## Author:

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: May 25, 1976.

Amended: Effective Date: February 13, 1985; June 9, 1987; June 16, 1988; September 21, 1989; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 24, 1991; 1993

335-3-10-.02

335-3-10-.02 Designated Standards of Performance.

(1) Subpart D - Fossil Fuel-Fired Steam Generators for which construction is commenced after August 17, 1971.

(a) Subpart Da - Electric Utility Steam Generating Units for which construction is commenced after September 18, 1978.

(b) Subpart Db - Industrial-Commercial-Institutional Steam Generating Units.

(c) Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units.

(2) Reserved.

(3) Subpart E - Incinerators.

(a) Subpart Ea - Municipal Waste Combustors.

(4) Subpart F - Portland Cement Plants.

(5) Subpart G - Nitric Acid Plants.

(6) Subpart H - Sulfuric Acid Plants.

(7) Subpart I - Hot Mix Asphalt Facilities.

(8) Subpart J - Petroleum Refineries.

(9) Subpart K - Storage Vessels for Petroleum Liquids constructed after June 11, 1973 and prior to May 19, 1978.

(a) Subpart Ka - Storage Vessels for Petroleum Liquids constructed after May 18, 1978.

(b) Subpart Kb - Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 12, 1984.

(10) Reserved.

(11) Reserved.

(12) Subpart L - Secondary Lead Smelters.

(13) Subpart M - Secondary Brass and Bronze Ingot Production Plants.

(14) Subpart N - Iron and Steel Plants.

(a) Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which construction is commenced after January 20, 1983.

(15) Subpart O - Sewage Treatment Plants.

(16) Subpart P - Primary Copper Smelters.

(17) Subpart Q - Primary Zinc Smelters.

(18) Subpart R - Primary Lead Smelters.

(19) Subpart S - Primary Aluminum Reduction Plants.

(20) Subpart T - Wet Process Phosphoric Acid Plants.

(21) Subpart U - Superphosphoric Acid Plants.

(22) Subpart V - Diammonium Phosphate Plants.

(23) Subpart W - Triple Superphosphate Plants.

(24) Subpart X - Granular Triple Superphosphate Storage Facilities.

(25) Subpart Y - Coal Preparation Plants.

(26) Subpart Z - Ferroalloy Production Facilities.

(27) Subpart AA - Steel Plants (Electric arc furnaces and dust-handling equipment).

(a) Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon Oxygen - Decarburization Vessels.

(28) Subpart BB - Kraft Pulp Mills.

(29) Subpart CC - Standards of Performance for Glass Manufacturing Plants.

(30) Subpart DD - Grain Elevators.

(31) Subpart EE - Surface Coating of Metal Furniture.

- (32) Subpart FF - Reserved.
- (33) Subpart GG - Stationary Gas Turbines.
- (34) Subpart HH - Lime Manufacturing Plants.
- (35) Subpart II - Reserved.
- (36) Subpart JJ - Reserved.
- (37) Subpart KK - Lead-Acid Battery Manufacture.
- (38) Subpart LL - Metallic Mineral Processing Plants.
- (39) Subpart MM - Automobile and Light-Duty Truck Surface Coating Operations.
- (40) Subpart NN - Phosphate Rock Plants.
- (41) Subpart OO - Reserved.
- (42) Subpart PP - Ammonium Sulfate Manufacturing.
- (43) Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.
- (44) Subpart RR - Pressure Sensitive Tape and Label Surface Coating Industry.
- (45) Subpart SS - Industrial Surface Coating - Large Appliances.
- (46) Subpart TT - Metal Coil Surface Coating Operations.
- (47) Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture.
- (48) Subpart VV - Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry.
- (49) Subpart WW - Beverage Can Surface Coating Industry.
- (50) Subpart XX - Bulk Gasoline Terminals.
- (51) Subpart YY - Reserved.
- (52) Subpart ZZ - Reserved.

- (53) Subpart AAA - Reserved.
- (54) Subpart BBB - Rubber Tire Manufacturing Industry.
- (55) Subpart CCC - Reserved.
- (56) Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
- (57) Subpart EEE - Reserved.
- (58) Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.
- (59) Subpart GGG - VOC Fugitive Emission Sources - Petroleum Refineries.
- (60) Subpart HHH - Synthetic Fiber Production Facilities
- (61) Subpart III - VOC Emissions from SOCM I Air Oxidation Unit Processes.
- (62) Subpart JJJ - Petroleum Dry Cleaners.
- (63) Subpart KKK - Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
- (64) Subpart LLL - Standards of Performance for Onshore Natural Gas Processing: SO<sub>2</sub> Emissions.
- (65) Subpart MMM - Reserved.
- (66) Subpart NNN - VOC Emissions from SOCM I Distillation Operations.
- (67) Subpart OOO - Nonmetallic Mineral Processing Plants.
- (68) Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.
- (69) Subpart QQQ - VOC Emissions from Petroleum Refinery Wastewater Systems.
- (70) Subpart RRR - Reserved.
- (71) Subpart SSS - Magnetic Tape Manufacturing Industry.



335-3-10-.02

(72) Subpart TTT - Industrial Surface Coating;  
Plastic Parts for Business Machines.

(73) Subpart UUU - Reserved Calciners and Dryers in  
Mineral Industries.

(74) Subpart VVV - Polymeric Coating of Supporting  
Substrates.

Author:

Statutory Authority: Code of Alabama 1975, §§ 22-28-14,  
22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: May 25, 1976.

Amended: Effective Date: June 23, 1981; February 13,  
1985; April 15, 1987; June 16, 1988; September 21, 1989;  
November 1, 1990; March 28, 1991; July 31, 1991;  
September 19, 1991; October 24, 1991; \_\_\_\_\_ 1993.

335-3-10-.03 Appendices to 40 CFR 60.

(1) Appendix A - Reference Method.

(2) Appendix B - Performance Specifications.

(3) Appendix F - Quality Assurance Procedures.

Author: Robert Cowne

Statutory Authority: Code of Alabama, 1975 §§22-28-14,  
22-22A-5, 22-22A-6, 22-22A-8.

History: Effective Date: June 16, 1988.

Amended: Effective Date: November 1, 1990; March 28,  
1991; July 31, 1991; September 19, 1991; October 24, 1991;  
\_\_\_\_\_ 1993.

335-3-10-.04 Word or Phrase Substitutions. In all the  
standards designated in Rule 335-3-10-.02 substitute:

(1) Director for Administrator.

(2) Department for U. S. Environmental Protection  
Agency (except in references).

Author:

Statutory Authority: Code of Alabama, 1975, §§22-28-14,  
22-22A-5, 22-22A-6, 22-22A-8.

History: Effective Date: May 25, 1976

Amended: Effective Date: February 13, 1985; June 16,  
1988.

## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

## Air Division

## Chapter 335-3-11

## National Emission Standards for Hazardous Air Pollutants

## Table of Contents

335-3-11-.01	General
335-3-11-.02	Designated Emission Standards
333-3-11-.03	Appendices
335-3-11-.04	Word or Phrase Substitutions
335-3-11-.05	Certification of Asbestos Abatement Contractors

335-3-11-.01 General.

(1) The Environmental Protection Agency Regulations, and the Appendices applicable thereto, governing Hazardous Air Pollutants (40 CFR, Part 61 and Appendices) designated in Rule 335-3-11-.02 are incorporated by reference as they exist in 40 CFR 61 ~~(1991)~~ (1992), and 58 FR 3072 56-FR 47404-~~(September-19, 1991)~~ and 57-FR-8012-~~(March-5, 1992)~~, as amended by the word or phrase substitutions given in Rule 335-3-11-.03. References for specific documents containing the complete text of subject regulations are given in Appendix C to these Regulations.

The materials incorporated by reference are available for purchase and inspection at the Department's offices at 1751 Cong. W. L. Dickinson Drive, Montgomery, Alabama 36109.

(2) In the event of any conflict between the regulations contained in this Chapter and regulations contained in other chapters, the more stringent regulations will take precedence.

(3) Definitions. For purposes of this Chapter, the definitions listed in 40 CFR 61.02, Subpart A will apply.

## Author:

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: May 25, 1976.

Amended: Effective Date: February 13, 1985; June 9, 1987; June 16, 1988; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 30, 1992.

1993

335-3-11-.02

335-3-11-.02 Designated Emission Standards.

(1) Subpart B - Radon-222 Emission from Underground Uranium Mines.

(2) Subpart C - Beryllium.

(3) Subpart D - Beryllium Rocket Motor Firing.

(4) Subpart E - Mercury.

(5) Subpart F - Vinyl Chloride.

(6) Reserved.

(7) Reserved.

(8) Reserved.

(9) Subpart J - Benzene Equipment Leaks

(10) Reserved.

(11) Subpart L - Benzene Emissions from Coke By-Product Recovery Plants.

(12) Subpart M - Asbestos.

(13) Subpart N - Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants.

(14) Subpart O - Standard for Inorganic Arsenic Emissions from Primary Copper Smelters.

(15) Subpart P - Standard for Inorganic Arsenic Emission from Arsenic Trioxide and Metallic Arsenic Production Facilities.

(16) Reserved.

(17) Reserved.

(18) Reserved.

(19) Reserved.

(20) Reserved.

(21) Subpart V - Equipment Leaks (Fugitive Emission Sources).

(22) Subpart W - Radon-222 Emissions from Licensed Uranium Mill Tailings.

(23) Reserved.

(24) Subpart Y - Benzene Emissions from Benzene Storage Vessels.

(25) Reserved.

(26) Reserved.

(27) Subpart BB - Benzene Emissions from Benzene Transfer Operations.

(28) Reserved.

(29) Reserved.

(30) Reserved.

(31) Subpart FF - Benzene Emissions from Benzene Waste Operations.

**Author:**

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: May 25, 1976.

Amended: Effective Date: June 23, 1981; February 13, 1985; June 9, 1987; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 30, 1992; 1993.

**335-3-11-.03 Appendices to 40 CFR 61.**

**Appendix B - Test Methods.**

**Author:** Robert W. Cowne

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: June 16, 1988

Amended: Effective Date: March 28, 1991.

**335-3-11-.04 Word or Phrase Substitutions.** In all of the standards designated in Rule 335-3-11-.02 substitute:

(1) Director for Administrator.

(2) Department for U. S. Environmental Protection Agency (except in references).

335-3-11-.04

Author:

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: May 25, 1976.

Amended: Effective Date: February 13, 1985; June 16, 1988.

335-3-11-.05 Certification of Asbestos Abatement Contractors.

(1) Any person, firm, organization, or corporation who is the owner or operator of any asbestos removal project for which notification is required pursuant to the requirements of Section 335-3-11-.02(12) shall ensure that the parties executing the asbestos removal project are certified by the Department.

(2) Procedures for application for certification and recertification.

(a) An application for certification or recertification must be completed on forms that are supplied by the Department.

(b) Initial applications for certification may be submitted at any time after the adoption of this Rule. Applications for recertification must be submitted to the Department within a timeframe which is not greater than sixty (60) days or less than thirty (30) days prior to expiration of the existing certification.

(c) Applications shall include, at minimum, the following information:

1. Lists of supervisors and workers, including their accreditation numbers issued by the state-approved accreditation program.

2. A list of asbestos removal operations performed by the party during the previous twelve (12) months.

3. Assurance that all supervisors or workers used in asbestos removal operations employed by the party shall have a current accreditation by the state-approved accreditation program before performing any work inside or outside a removal site.

4. A written certification from the principal officer or person stating that he/she understands state regulations pertaining to asbestos removal and will abide by said regulations.

(d) The Department may issue a certificate of certification to a party if it has been determined that:

1. Each supervisor and worker involved in asbestos removal is accredited by the state-approved accreditation program.

2. All application forms and attachments are properly completed and have been submitted.

3. The application fees have been paid.

(e) The Department may deny certification if it determines that the applicant is unable or unwilling to fully comply with applicable requirements, procedures, rules and standards promulgated or established by the Commission or the Department. All notices regarding the denial of certification will be sent via certified mail.

(3) Parties must reapply annually in order to maintain proper certification.

(4) A copy of the party's current certification must be available at each of its removal sites.

(5) Annual accreditation of supervisors and workers is required.

(6) Copies of accreditation for every supervisor and worker must be kept at each removal site.

(7) The Department may revoke certification of any party duly certified if the party repeatedly fails to comply with applicable rules and standards or fails to comply with any certification requirements.

(8) The requirements of this Rule become enforceable 120 days after the effective date.

Author: Ludwig C. Hoffmann III

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 22-39-5.

History: Effective Date: November 1, 1990.

Amended: Effective Date:

## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

## Air Division

## Chapter 335-3-14

Air Permits

## Table of Contents

335-3-14-.01	General Provisions
335-3-14-.02	Permit Procedure
335-3-14-.03	Standards for Granting Permits
335-3-14-.04	Air Permits Authorizing Construction in Clean Air Areas
<del>335-3-14-.05</del>	<del>Renewable Operating Permits</del>
335-3-14-.05	Air Permits Authorizing Construction in or Near Non-Attainment Areas.

335-3-14-.01 General Provisions.

## (1) Air Permit.

(a) Any person building, erecting, altering, or replacing any article, machine, equipment, or other contrivance, the use of which may cause the issuance of or an increase in the issuance of air contaminants or the use of which may eliminate or reduce or control the issuance of air contaminants, shall ~~first obtain authorization for such construction from the Director in the form of an Air Permit.~~ submit an application for an Air Permit at least 10 days prior to construction.

(b) Before any article, machine, equipment, or other contrivance described in Paragraph 335-3-14-.01(1)(a) may be operated or used, authorization shall be obtained from the Director in the form of an Air Permit. No Permit shall be granted for any article, machine, equipment or contrivance described in Paragraph 335-3-14-.01(1)(a), constructed or installed without ~~authorization notification~~ as required by Paragraph 335-3-14-.01(1)(a), until the information required is presented to the Director and such article, machine, equipment or contrivance is altered, if necessary, and made to conform to the standards established by the Department.

(c) Any article, machine, equipment, or other contrivance described in Paragraph 335-3-14-.01(1)(a) which is presently operating (or which is not presently operating but which is capable of being operated) without an Air Permit may continue to operate (or may restart) only if its owner or operator obtains an Air Permit prior to a date to be set by the Director (or prior to restarting).

(d) Display of Air Permit. A person who has been granted an Air Permit for any article, machine, equipment, or other contrivance shall keep such permit under file or on display at all times at the site where the article, machine, equipment, or other contrivance is located and will make such a permit readily available for inspection by any and all persons who may request to see it.

(e) The Director shall have the authority to decide cases where an article, machine, equipment, or other contrivance is not clearly subject to nor exempt from the application of this Rule. In addition, the Director may rule that a particular article, machine, equipment, or other contrivance is subject to the application of this Rule even though it is exempt from the system according to Paragraph 335-3-14-.01(1)(a) and Section 335-3-14-.01(5) of this Rule. The operator or builder of such an article, machine, equipment, or other contrivance may appeal the Director's classification to the Commission, which shall overrule the Director only if it is shown that he acted arbitrarily and contrary to the purposes of the Act.

(f) Upon completion of construction by a new facility, the Director shall, within a reasonable period of time, dispatch an inspector to the facility in question. If the inspector determines that the facility has been constructed according to the specifications as set forth under the Air Permit or that any changes to the facility would reduce or affect to an unsubstantial degree that quantity of air contaminants emitted by the facility, and if a reviewing officer of the Division agrees with this conclusion, then the Director shall authorize initial operation of the facility until an official inspection of the facility under actual operating conditions can be made and the results reviewed or until the Air Permit is suspended or revoked by the Director. The Director may authorize initial operation of the facility without an inspection if the applicant fulfills the following requirements:

~~1. The application for an Air Permit is filled out and countersigned by a Professional Engineer familiar with air pollution control as it relates to the equipment under application.~~

~~2. Upon completion of the construction, a Professional Engineer an owner or operator familiar with the application for an Air Permit submits a letter to the Director, signed and sealed with his professional stamp, testifying that the construction under application has been completed and is in accordance with the specification as set down in the Air Permit. The Director is empowered to reject that testimony of the Professional Engineer if the~~



Director decides that the ~~Professional Engineer's~~ owner or operator's qualifications are insufficient to allow him to accurately and completely assess the equipment in question. A ~~Professional Engineer~~ owner or operator may appeal any such judgment to the Commission.

(g) The Director may issue an Air Permit subject to conditions which will bring the operation of any article, machine, equipment, or other contrivance within the standards of Section 335-3-14-.03(1) in which case the conditions shall be specified in writing. Commencing construction or operation under such an Air Permit shall be deemed acceptance of all the conditions specified. The Director shall issue an Air Permit with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment, or other contrivance can operate within the standards of Section 335-3-14-.03(1) under the revised conditions.

~~(h) An Air Permit may allow an article, machine, or other contrivance to be operated in violation of the conditions of Section 335-3-14-.03(1) if one of the conditions of the permit is a definite schedule by which the article, machine, equipment or contrivance may attain the conditions of Section 335-3-14-.03(1) and if the schedule provides for attaining the conditions of Section 335-3-14-.03(1) at the earliest possible date and is approved by the Director. An Air Permit will be revoked if the applicant does not submit progress reports to the Director according to the schedule established by the Air Permit. The Director may further revoke the Air Permit if the progress reports do not show satisfactory progress as specified by the terms of the Air Permit or if the progress reports are found to be inaccurate. Reserved.~~

~~(i) An Air Permit that allows any new article, machine, equipment, or contrivance to operate in violation of the requirements of Section 335-3-14-.03(1) may not be granted for a period of time greater than one year, including all renewals. Reserved.~~

~~(j) No Air Permit issued under Paragraphs 335-3-14-.01~~  
~~(1) (h) and 335-3-14-.01(1) (i) for any existing article, machine, equipment, or contrivance may be granted for a period of time longer than the greater of the following periods:~~

~~1. The period from the granting of the permit to a date three years after the date of initial adoption of an applicable rule or regulation.~~

~~2. The period from the granting of the permit to a date three years after the date the Administrator of the~~

~~U.S. Environmental Protection Agency approves, in accordance with Section 110 of the Federal Act, such applicable rule or regulation as a part of an implementation plan (or any revision thereof).~~ Reserved.

(k) An existing facility which holds a Synthetic Minor Operating Permit issued under ADEM Admin. Code R. 335-3-15 or an Operating Permit issued under ADEM Admin. Code R. 335-3-16 is exempt from the requirements of this chapter provided that:

1. the Synthetic Minor Operating Permit is modified as required by ADEM Admin Code R. 335-3-15 prior to the initial operation of any new or modified sources, or

2. the Operating Permit is modified as required by ADEM Admin. Code R. 335-3-16 and any modifications are not subject to the requirments of ADEM Admin. Code R. 335-3-14-.04, or

3. for a modification which is subject to the requirments of ADEM Admin. Code R. 335-3-14-.04, the Operating Permit is issued prior to commencement of construction of the modification, and the Operating Permit fulfills all requirements of ADEM Admin. Code R. 335-3-14-.04, or

4. the Operating Permit is modified as required by ADEM Admin Code R. 335-3-16 and any modifications are not subject to the requirments of ADEM Admin. Code R. 335-3-14-.05, or

5. for a modification which is subject to the requirments of ADEM Admin. Code R. 335-3-14-.05, the Operating Permit is issued prior to commencement of construction of the modification, and the Operating Permit fulfills all requirements of ADEM Admin. Code R. 335-3-14-.05.

(2) Provision of Sampling and Testing Facilities. A person operating or using any article, machine, equipment or other contrivance for which these rules and regulations require a permit shall provide and maintain such sampling and testing facilities as specified in the Air Permit.

(3) The holder of a Permit under this Rule shall comply with conditions contained in such Permit as well as all applicable provisions of these rules and regulations ~~except where violations are specifically allowed in accordance with an Air Permit issued under Paragraphs 335-3-14-.01(1)(h) and 335-3-14-.01(1)(i).~~

(4) Transfer. An Air Permit shall not be transferable whether by operation of law or otherwise,

either from one location to another, from one piece of equipment to another, or from one person to another.

(5) Exemptions. From time to time the Director may specify certain classes or sizes of articles, machines, equipment, or other contrivances which would normally be subject to the requirements to ~~obtain-apply for~~ an Air Permit as being exempt from the requirement to ~~obtain apply for~~ such permits. Exempt sources are subject in every other way to these rules and regulations.

(6) Delegation of Air Permit requirements to Local Air Pollution Control Programs.

(a) Local air pollution control programs may receive delegation of authority from the Director to administer the general Air Permit requirements of Section 335-3-14-.01(1) within their jurisdiction provided the local air pollution control program:

1. adopts regulations insuring applicants are required to satisfy the same requirements as contained in the Department's regulations; and

2. adopts regulations which require the Director to be provided with an opportunity to review the permit application, the analysis of the permit, and proposed permit conditions at least 10 days prior to issuance of an Air Permit.

(b) Local air pollution control programs may receive delegation of authority from the Director to administer the Air Permit requirements of Section ~~335-3-14-.03(2)~~ 335-3-14-.05 and Rule 335-3-14-.04 within their jurisdiction provided:

1. the requirements of Subparagraph 335-3-14-.01 (6) (a) (1) are met; and

2. the local air pollution control program demonstrates that it has the necessary manpower and technical expertise to implement the requirements of said regulations; and

3. the local air pollution control program adopts regulations which require that the local air pollution control program shall provide the Director a copy of preliminary determinations and public comment notices for all permits issued pursuant to Section ~~335-3-14-.03(2)~~ 335-3-14-.05 and Rule 335-3-14-.04 at the same time the notice is forwarded for publication in the newspaper.

(c) If the Director of ADEM determines that local program procedures for implementing all the portions of

Section 335-3-14-.01(1), Section ~~335-3-14-.03(2)~~ 335-3-14-.05 and Rule 335-3-14-.04 are inadequate, or are not being effectively carried out, any authority delegated to the local programs to administer Section 335-3-14-.01(1), Section ~~335-3-14-.03(2)~~ 335-3-14-.05, and Rule 335-3-14-.04 may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the local air pollution control program.

(d) The Director reserves the authority contained in Section 335-3-14-.02(4), to revoke any Air Permit issued pursuant to this Section.

(e) Any Air Permit issued by a local air pollution control program, including all conditions contained therein, is enforceable by the ADEM.

(7) Public Participation

(a) Notice shall be given by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice and also to persons on a mailing list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list, under the following circumstances:

1. Construction at a Greenfield Site.

(i) For the purposes of this paragraph, a "Greenfield Site" shall mean a new development or the initial operation of a new facility.

2. The Director, at his discretion, may require Public Notification for any application received in accordance with Paragraph 335-3-14-.01(1)(a).

(b) Public comments will be received by the Department for a period of 15 days following the publication of the public notice.

(c) Public Notice will be held in accordance with the requirements of 335-3-14-.04 and 335-3-14-.05 for any application which is subject to the requirements of 335-3-14-.04 or 335-3-14-.05.

(d) Construction of any article, machine, equipment, or other contrivance as described in Paragraph 335-3-14-.01(1)(a) shall not commence until after an Air Permit is issued if a public notice is required under this Section.

Author: James W. Cooper and John E. Daniel  
Statutory Authority: Code of Alabama 1975, §§ 22-28-14,

22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: January 18, 1972.

Amended: April 3, 1979; February 13, 1985.

335-3-14-.02 Permit Procedure.

(1)(a) Applications. Every application for an Air Permit required under Section 335-3-14-.01(1) shall be filed in the manner and form prescribed by the Director and shall give all the information necessary to enable the Director to make the determination required by Rule 335-3-14-.03.

(b) Cancellation of Applications. An Air Permit authorizing construction shall expire and the application shall be canceled two years from the date of issuance of the Air Permit if the construction has not begun.

(2) Action on Application. The Director shall act, within a reasonable time, on an application for an Air Permit and shall notify the applicant in writing of its approval, conditional approval, or denial.

(3) Denial of Application. In the event of a denial of an Air Permit, the Director shall notify the applicant in writing of the reason therefor. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgement of the persons served or affidavit of the person making the service. The Director shall not accept a further application unless the applicant has complied with the objections specified by the Director as its reasons for denial of the Air Permit.

(4) Revocation of Air Permits. Any Air Permit granted by the Director may be revoked for any of the following causes:

(a) failure to comply with any conditions of the permit;

(b) failure to notify the Director prior to intended use or operation of any article, machine, equipment, or other contrivance described in Paragraph 335-3-14-.01(1)(a);

(c) failure to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods; and sample such emissions in accordance with such methods at such locations, intervals and procedures as the Director may prescribe in accordance with Section 335-3-1-.04(2);

(d) failure to comply with any provisions of any

Departmental administrative order issued concerning the permitted source or facility.

(e) failure to allow employees of the Department upon proper identification:

1. to enter any premises where any article, machine, equipment, or other contrivance described in Section 335-3-14-.01(1) is located or in which any records are required to be kept under provisions of the permit and/or the rules and regulations;

2. to have access to and copy any records required to be kept under provisions of the permit and/or the rules and regulations;

3. to inspect any monitoring equipment or practices being maintained pursuant to the permit and/or rules and regulations; and

4. to have access to and sample any discharge of air contaminants resulting directly or indirectly from the operation of any article, machine, equipment, or other contrivance described in Section 335-3-14-.01(1).

(f) failure to comply with the rules and regulations of the Department.

(g) for any other cause, after a hearing which establishes, in the judgment of the Department, that continuance of the permit is not consistent with the purpose of this Act or regulations under it.

(5) Expiration of Air Permits. Air Permits shall expire immediately following:

(a) the issuance of a Synthetic Minor Operating Permit required by ADEM Admin. Code R. 335-3-15 or an Operating Permit required by ADEM Admin Code R. 335-3-16 which pertains to the article, machine, equipment, or other contrivance regulated by the Air Permit.

(b) the final denial of a Synthetic Minor Operating Permit required by ADEM Admin Code R. 335-3-15 or an Operating Permit required by ADEM Admin. Code R. 335-3-16 which pertains to the article, machine equipment, or other contrivance regulated by the Air Permit.

(c) the failure of a facility to apply for a Synthetic Minor Operating Permit or modification to an existing Synthetic Minor Operating Permit as required by ADEM Admin. Code R. 335-3-15 or the failure of a facility to apply for an Operating Permit or modification to an existing Operating Permit as required by ADEM Admin. Code

R. 335-3-16.

Author: James W. Cooper and John E. Daniel  
Statutory Authority: Code of Alabama 1975, §§ 22-28-14,  
22-22A-5, 22-22A-6, and 22-22A-8.  
History: Effective Date: January 18, 1972.  
Amended: April 3, 1979; February 13, 1985.

335-3-14-.03 Standards for Granting Permits.

(1) General Standards.

(a) The Director shall deny a permit if the applicant does not show that every article, machine, equipment, or other contrivance, the use of which may cause the issuance of air contaminants, is so designed, controlled, or equipped with such air pollution control equipment, that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of these rules and regulations.

(b) The Director shall deny a permit if the applicant does not present, in writing, a plan whereby the emission of air contaminants by every article, machine, equipment, or other contrivance described in the permit application, will be reduced during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency in accordance with the provisions of Chapter 335-3-2, where such a plan is required.

(c) Before an Air Permit is granted, the Director may require the applicant to provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or degree of air contaminants discharged into the atmosphere from the article, machine, equipment, or other contrivance described in the Air Permit. In the event of such a requirement, the Director shall notify the applicant in writing of the required size, number, and location of the sampling platform; the access to the sampling platform; and the utilities for operating and sampling and testing equipment.

(d) The Director may also require the applicant to install, use, and maintain such monitoring equipment or methods; sample such emissions in accordance with such methods, at such locations, intervals, and procedures as may be specified; and provide such information as the Director may require.

(e) Before acting on an application for an Air Permit, the Director may require the applicant to furnish further information or further plans or specifications.

(f) If the Director finds that the article, machine, or other contrivance has been constructed not in accordance with the Air Permit, and if the changes noted are of a substantial nature in that the amount of air contaminants emitted by the article, machine, equipment, or other contrivance may be increased, or in that the effect is unknown, then he shall revoke the Air Permit. The Director shall not accept any further application for an Air Permit until the article, machine, equipment, or other contrivance has been reconstructed in accordance with said Air Permit or until the applicant has proven to the satisfaction of the Director that the change will not cause an increase in the emission of air contaminants.

(g)1. The Director shall deny an Air Permit where he determines that the construction and operation of such source will interfere with attaining or maintaining any primary or secondary standard established by Section ~~335-3-1-.04(1)~~ 335-3-1-.03(1). A new source or modification will be considered to interfere with attaining or maintaining a standard when such source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the NAAQS:

Pollutant	AVERAGING TIME				
	Annual	24 hrs	8 hrs	3 hrs	1hr
SO <sub>2</sub>	1.0 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>		25 ug/m <sup>3</sup>	
PM <sub>10</sub>	1.0 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>			
NO <sub>2</sub>	1.0 ug/m <sup>3</sup>				
CO			0.5 mg/m <sup>3</sup>		2 mg/m <sup>3</sup>

2. A proposed major source or major modification subject to this Paragraph may reduce the impact of its emissions upon air quality by obtaining sufficient emissions reductions to, at a minimum, compensate for its adverse ambient impact where this impact would otherwise cause or contribute to a violation of any national ambient air quality standard or exceed the significance levels of Subparagraph 335-3-14-.03(1)(g)1. above. In the absence of such emission reductions, the Director shall deny the proposed construction.

3. The requirements of Paragraph 335-3-14-.03(1)(g) shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment pursuant to Section 107 of the federal Clean Air Act.

~~(h) In granting any Air Permit, the Director may allow, as a condition of such permit, for the intermittent discharge of air contaminants, during startup, shutdown, rate change, or load change in excess of the limitations~~



~~specified in these rules and regulations where he finds that because of the nature of the source there is no practicable alternative.~~

(h) Exceptions to violations of emissions limits

1. The Director may, in the Air Permit, exempt on a case by case basis any exceedances of emission limits which cannot reasonably be avoided, such as during periods of start-up, shut-down or load change.

2. Emergency provision

(i) An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the facility, including acts of God, which situation require immediate corrective action to restore normal operation, and that causes the facility to exceed a technology based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(ii) Exceedances of emission limitations during emergencies (as defined above) at a facility may be exempted as being violations provided that:

(I) the permittee can identify the cause (s) of the emergency;

(II) the permitted facility was at the time being properly operated;

(III) during the period of the emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements of the permit;

(IV) the permittee submitted notice of the emergency to the Department within 2 working days of the time when the emissions limitations were exceeded due to the emergency; and

(V) the permittee immediately documented the emergency exceedance in an "Emergency Log", which shall be maintained for 5 years in a form suitable for inspection upon request by a representative of the Department.

(iii) The Director shall be the sole determiner of whether an emergency has occurred.

(iv) This provision is in addition to any emergency

or upset provision contained in any applicable requirement.

(i) A determination may be made by the Director to deny a permit application if the applicant operates other permitted facilities or sources within the state which are in substantial noncompliance as determined by the Director, until such noncompliance is corrected or if the Director determines that a permit that results in compliance with applicable air pollution control standards could not be issued, or if issued, could not be complied with.

~~(2) Air Permits authorizing construction in or near Nonattainment Areas.~~

~~(a) Effective Date. The requirements of this Section shall be effective upon approval by EPA.~~

~~(b) Definitions. For purposes of this Section, the following terms will have the meanings ascribed in this Paragraph:~~

~~1. "Source" shall mean any building structure, installation, article, machine, equipment, device or other contrivance which emits or may emit any air contaminant. A facility is composed of one or more pollutant-emitting sources.~~

~~2. "Potential" to emit shall mean the maximum capacity to emit a pollutant under physical and operational design conditions. Any physical or operational limitation on the capacity to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as a part of the design only if the limitation or the effect it would have on emissions is enforceable. Secondary emissions are not calculated in determining the potential to emit.~~

~~3.(i) "Major Facility" shall mean:~~

~~(I) Any source or facility for which the potential emission rate is equal to or greater than 100 tons per year of any pollutant subject to regulation under the Federal Clean Air Act (CAA); or~~

~~(II) Any physical change that would occur at a facility not qualifying under Subdivision 335-3-14-.03~~

~~(2)(b)(3)(i)(I) as a major facility, if the change would constitute a major facility by itself.~~

~~(ii) A major facility that is major for volatile organic compounds shall be major for ozone.~~

~~4. "Major Modification" shall mean any physical change in, change in the method of operation of, or~~

~~cion to a major facility which would result in a significant net emissions increase at the facility of any pollutant subject to regulation under the CAA.~~

~~—(i) A physical change or a change in method of operation shall not include:~~

~~——(I) Routine maintenance, repair, and replacement;~~

~~——(II) Use of an alternative fuel or raw material by reason of an order in effect under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;~~

~~——(III) Use of an alternative fuel by reason of an order or rule under Section 125 of the CAA;~~

~~——(IV) Change in ownership of a source;~~

~~——(V) Use of refuse derived fuel generated from municipal solid waste;~~

~~——(ii) A change in the method of operation, unless limited by previous permit conditions, shall not include:~~

~~——(I) An increase in the production rate, if such increase does not exceed the operating design capacity of the source;~~

~~——(II) An increase in the hours of operation;~~

~~——(III) Use of an alternative fuel or raw material, if on December 21, 1976, the source was capable of accommodating such fuel or material.~~

~~——5. "Allowable Emissions" shall mean the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate, or hours of operation, or both) and the most stringent of the following:~~

~~——(i) Applicable New Source Performance Standards set forth in 40 CFR 60;~~

~~——(ii) Applicable National Emission Standards for Hazardous Air Pollutants set forth in 40 CFR 61;~~

~~——(iii) Applicable State Implementation Plan emission limitation, or~~

~~——(iv) The emission rate specified as an enforceable~~

~~permit condition.~~

~~6. "Lowest Achievable Emission Rate" (LAER) shall mean, for any source, that rate of emissions based on whichever of the following is more stringent:~~

~~(i) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or~~

~~(ii) The most stringent emission limitation which is achieved in practice or can reasonably be expected to occur in practice by such class or category of sources taking into consideration the pollutant which must be controlled,~~

~~(iii) This term, applied to a modification, means the lowest achievable emission rate for the new or modified source within the facility. In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.~~

~~7. Reserved.~~

~~8. Reserved.~~

~~9. "Significant Impact" shall mean:~~

~~(i) For particulate matter and sulfur dioxide, the following significant levels would be exceeded in the portion of the designated nonattainment area where the ambient air quality standards are actually violated:~~

~~Annual 24 Hour 3 Hour~~

~~Particulate Matter 1 ug/m<sup>3</sup> 5 ug/m<sup>3</sup>~~

~~Sulfur Dioxide 1 ug/m<sup>3</sup> 5 ug/m<sup>3</sup> 25 ug/m<sup>3</sup>~~

~~(ii) For volatile organic compounds, any source locating outside the boundaries of a nonattainment area shall not be considered to have a significant impact on the nonattainment area.~~

~~10. (i) "Net Emissions Increase" shall mean the amount by which the sum of the following exceeds zero:~~

~~(I) Any increase in actual emissions from a particular physical change or change in the method of~~

operation, and

~~(II) Any other increases and decreases in actual emissions that are contemporaneous with the particular change and are otherwise creditable.~~

~~(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:~~

~~(I) The date five (5) years before construction on the particular change commences, and~~

~~(II) The date that the increase from the particular change occurs.~~

~~(iii) An increase or decrease in actual emissions is creditable only if:~~

~~(I) It has not been relied on in issuing a permit to the facility which is in effect when the increase in actual emissions from the particular change occurs, and~~

~~(II) It occurs after the effective date of this Section.~~

~~(iv) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.~~

~~(v) A decrease in actual emissions is creditable only to the extent that:~~

~~(I) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;~~

~~(II) It is enforceable at and after the time that actual construction on the particular change begins;~~

~~(III) It has not been relied on in issuing any permit under the State Implementation Plan or in demonstrating attainment or reasonable further progress; and~~

~~(IV) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.~~

~~(vi) An increase that results from a physical change occurs when the source on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.~~

~~11. (i) "Significant" shall mean, in reference to a net emissions increase or the potential of a source or facility to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:~~

<del>Pollutant and Emissions Rate (tons per year)</del>	
<del>Carbon monoxide:</del>	<del>100</del>
<del>Nitrogen oxides:</del>	<del>40</del>
<del>Sulfur dioxide:</del>	<del>40</del>
<del>Ozone (volatile organic compounds):</del>	<del>40</del>
<del>Lead:</del>	<del>0.6</del>

~~12. (i) "Actual Emissions" shall mean the actual rate of emissions of a pollutant from a source as determined by Subdivisions (12) (ii) through (iv).~~

~~(ii) In general, actual emissions as of any given date shall equal the average rate in tons per year at which the source actually emitted the pollutant during a two-year period which precedes the given date and which is representative of normal source operation. The use of a different time shall be allowed upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period.~~

~~(iii) The reviewing authority may presume that source specific allowable emissions for the source are equivalent to the actual emissions of the source.~~

~~(iv) For any source which has not begun normal operations on the given date, actual emissions shall equal the potential to emit of the source on that date.~~

~~13. "Construction" shall mean any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of a source) which would result in a change in actual emissions.~~

~~14. "Commence", as applied to construction of a major facility or major modification, shall mean that the owner or operator has all necessary preconstruction approvals or permits and has either:~~

~~(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or~~

~~(ii) Entered into binding agreements or contractual~~

~~obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.~~

~~15. "Necessary Preconstruction Approvals or Permits" shall mean those permits or approvals required under the State Implementation Plan.~~

~~16. "Begin Actual Construction" shall mean, in general, initiation of physical on-site construction activities including, but not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.~~

~~17. "Adverse Impact on Visibility" shall mean visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case by case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.~~

~~18. "Visibility Impairment" shall mean any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.~~

~~19. "Natural Conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast or coloration.~~

~~20. "Offset ratio" shall mean the ratio of total actual emissions reductions to total allowable emissions increases of such pollutant from the new source.~~

~~(c) Applicability. Except as provided in Paragraphs 335-3-14-.03(2)(d), (e), and (f), no Air Permit shall be issued to a person proposing to construct or make a major modification to a major facility (for the pollutant for which the area has been designated nonattainment) in a nonattainment area or which will have a significant impact if located outside the nonattainment area unless:~~

~~1. The person demonstrates that the new source or the major modification will meet an emission limitation, said emission limitation to be the lowest achievable emission rate (LAER) for that source or facility;~~

~~2. The person certifies that all existing major sources owned or operated by that person (or any entity controlling, controlled by, or under common control with that person) within Alabama are in compliance with applicable emission limits or are on an acceptable schedule;~~

~~3. The person demonstrates that emission reductions from existing source(s) in the area of the proposed source/major modification (whether or not under the same ownership) meet the offset requirements of Paragraph 335-3-14-.03(2)(g);~~

~~4. Reserved.~~

~~(d) Exceptions.~~

~~1. Reserved.~~

~~2. Reserved.~~

~~3.(i) A person proposing to construct or make a major modification to a major facility subject to the provisions of this Section, located in a nonurban nonattainment area (less than 200,000 population), shall be required to install LAER but shall not be required to obtain emission offsets as specified herein.~~

~~(ii) The provisions of Subdivision 335-3-14-.03(2)(d)3.(i) are applicable to volatile organic compound sources only.~~

~~4. Construction of or modification to a major source locating in a nonattainment area which is projected to be attainment as of the startup date of such source shall be exempt from the requirements of this Section.~~

~~5. Reserved.~~

~~(e) Temporary Emissions. The requirements of Subparagraph 335-3-14-.03(2)(c)3. shall not apply to emissions of a particular pollutant if the person applying for an Air Permit under this Section can demonstrate that the emissions of the pollutant are of a temporary nature including but not limited to those from a pilot plant, a portable facility, construction, or exploration; and notice is given to the Director at least thirty (30) days prior to relocation of such source identifying the proposed new location and the probable duration of operation at such location.~~

~~(f) When a facility or modification subject to this Section may impair the visibility of a Federal Class I~~



~~area, the following procedures shall be followed:~~

~~1. The Facility shall provide an analysis of the impairment to visibility that would occur as a result of the facility or modification and general commercial, industrial and other growth associated with the facility or modification.~~

~~2. The Director shall notify all affected Federal Land Managers within 30 days of receipt of any advance notification of a permit application for a proposed major stationary facility or modification, the emissions from which may affect a Class I Area. The Director shall provide written notification to all affected Federal Land Managers within 30 days of receiving the permit application. At least 30 days prior to the publication of the notice for public comment on the application, the Director shall provide the Federal Land Manager with a copy of all information relevant to the permit application including an analysis provided by the facility of the potential impact of the proposed facility on visibility.~~

~~3. The Director shall consider any analysis concerning visibility impairment performed by the Federal Land Manager if the analysis is received within 30 days of being provided the permit application information and analysis required in Subparagraph 335-3-14-.03(2)(f)2. If the Director finds that the analysis of the Federal Land~~

~~Manager fails to demonstrate to his satisfaction that an adverse impact on visibility will result in the Federal Class I area, the Director shall provide in the notice for public comment on the application, an explanation of his decision or notice as to where the explanation can be obtained.~~

~~4. The Director may require monitoring of visibility in any Class I area near the proposed new facility or modification.~~

~~5. The requirements of this Paragraph shall not apply to a particular major stationary facility or major modification, if the facility or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the Governor of Alabama requests that it be exempt from those requirements.~~

~~(g) Offset Standards.~~

~~1. Increased emissions by a source or facility subject to this Section must be offset by a reduction in the emissions of that pollutant by the source itself or by other sources in the area to the extent necessary to~~

~~prevent interference with reasonable further progress toward attainment.~~

~~(i) The offset ratio for ozone (marginal) nonattainment areas shall be at least 1.1 to 1.~~

~~(ii) The offset ratio for all other nonattainment areas shall be at least 1.0 to 1.~~

~~2. When a major source or modification, which is otherwise subject to the requirements of this Paragraph, will result in a specific and well defined increase in secondary emissions, which can be accurately quantified and which will impact the same nonattainment area, these emissions shall be offset in accordance with the requirements of this Paragraph.~~

~~3. The baseline for determining credit for emission offsets of any source shall be the allowable emissions of said source or the existing emissions of said source, not including any malfunctions, whichever is less.~~

~~4. Reduced allowable emissions from an existing source due to a change to a cleaner fuel may be used to offset emissions from the new source or alteration so long as the change will occur at some future date. Emission reductions from a change of fuel shall not be used to offset emissions if there are not adequate supplies of the new fuel available.~~

~~5. Offsets shall be made on a tons per year basis when all facilities involved in the emission offset calculations are operating at their maximum expected production rate. However, a source may be credited with emission reductions achieved by the shutdown of a source or the curtailment of production of a source below that which existed at the time the application was submitted, provided that the work force to be affected has been notified of the proposed shutdown or curtailment.~~

~~6. All emission reductions used for offsets must be legally enforceable in a manner approved by the Director.~~

~~(h) Reserved.~~

~~(i) Banking of Emission Offsets. Offsets approved after January 16, 1979, which exceed the requirement of reasonable further progress may be "banked" for future use; likewise, reductions in emissions from existing sources which exceed the requirement of reasonable further progress may be "banked" for future use. The banking is subject to the following requirements:~~

~~1. (i) Application shall be made in writing to the~~

~~Director, describing the emission offsets to be banked, such description to include location, source, and type of emissions.~~

~~—— (ii) Emission offsets cannot be banked beyond the allowable emissions of said source or the existing emission of said source, not including any malfunctions, whichever is less.~~

~~—— 2. Upon approval by the Director of said application, the banked emissions shall be credited to the facility submitting such application.~~

~~—— 3. (i) No emission offsets banked in accordance with the provisions of this Paragraph shall be used unless written notice is provided to the Director thirty (30) days prior to submission of the necessary permit applications, to provide opportunity for review of the proposed use of the banked emission offsets.~~

~~—— (ii) In the event that a determination is made that the banked emission offsets may not be used for the proposed construction, written notice shall be afforded the applicant, as provided in Section 335-3-14-.02(3), herein.~~

~~—— 4. In the event that a determination under Subdivision 335-3-14-.03(2)(i)3.(ii) is made by the Director, construction may proceed if, and only if, emission offsets are obtained sufficient to satisfy the requirements of Paragraph 335-3-14-.03(2)(g).~~

~~—— 5. Nothing contained in this Paragraph shall prohibit the transfer, assignment, sale, or otherwise complete disposition of said banked emission offsets, provided that written notice is provided to the Director, thirty (30) days prior to such disposition, describing in detail the recipient of the banked emissions.~~

~~—— (j) Reserved.~~

~~—— (k) At such time that a particular source or facility or modification becomes a major facility or major modification solely by virtue of a relaxation in any enforceable limitation established after August 7, 1980, on the capacity of the source, facility or modification otherwise to emit a pollutant, then the requirements of this Section shall apply as though construction had not yet commenced.~~

~~—— (l) The requirements of this Rule shall not apply to a particular major stationary facility or major modification if:~~

~~—— 1. The major facility or major modification was not~~

~~subject to this Section as in effect on November 26, 1979,  
or to the Federal Emission Offset Interpretative Ruling as  
in effect January 18, 1979, if the owner or operator:~~

~~—— (i) Obtained all necessary preconstruction approval  
before August 7, 1980;~~

~~—— (ii) Commenced construction within 18 months from  
August 7, 1980; and~~

~~—— (iii) Did not discontinue construction for a period  
of (18) eighteen months or more and completed construction  
within a reasonable time or~~

~~2. The facility or modification would be a major stationary facility or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary facility or modification and the facility does not belong to any of the following categories:~~

- ~~(i) Coal cleaning plants (with thermal dryers);~~
- ~~(ii) Kraft pulp mills;~~
- ~~(iii) Portland cement plants;~~
- ~~(iv) Primary zinc smelters;~~
- ~~(v) Iron and steel mills;~~
- ~~(vi) Primary aluminum ore reduction plants;~~
- ~~(vii) Primary copper smelters;~~
- ~~(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;~~
- ~~(ix) Hydrofluoric, sulfuric or nitric acid plants;~~
- ~~(x) Petroleum refineries;~~
- ~~(xi) Lime plants;~~
- ~~(xii) Phosphate rock processing plants;~~
- ~~(xiii) Coke oven batteries;~~
- ~~(xiv) Sulfur recovery plants;~~
- ~~(xv) Carbon black plants (furnace process);~~
- ~~(xvi) Primary lead smelters;~~
- ~~(xvii) Fuel conversion plants;~~
- ~~(xviii) Sintering plants;~~
- ~~(xix) Secondary metal production plants;~~
- ~~(xx) Chemical process plants;~~
- ~~(xxi) Fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;~~
- ~~(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;~~
- ~~(xxiii) Taconite ore processing plants;~~
- ~~(xxiv) Glass fiber processing plants;~~
- ~~(xxv) Charcoal production plants;~~
- ~~(xxvi) Any other stationary category which, as of August 7, 1980 is being regulated under Sections 111 or 112 of the Clean Air Act;~~

~~(m) Public Participation:~~

~~1. After receipt of an application to construct or any addition to such application, the Director shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this Rule the date on which the Director received all required information.~~

~~2. Within one (1) year after receipt of a complete application, the Director shall make a final determination~~

~~of the application. This involves performing the following actions in a timely manner:~~

~~—— (i) Make a preliminary determination whether construction should be approved, approved with conditions or disapproved.~~

~~—— (ii) Make available in at least one location in each region in which the proposed facility or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.~~

~~—— (iii) Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed facility or modification would be constructed, of the application, the preliminary determination, and the opportunity for written public comment, as well as comment at a public hearing.~~

~~—— (iv) Send a copy of the notice of public comment to the applicant, to EPA and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: any other state or local air pollution control agencies, the chief executives of the city and county where the source or modification~~

~~would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the facility or modification.~~

~~—— (v) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the facility or modification, the control technology required, and other appropriate considerations.~~

~~—— (vi) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Director shall consider the applicant's response in making~~

~~a final decision. The Director shall make all comments available for public inspection in the same locations where the Director made available preconstruction information relating to the proposed facility or modification.~~

~~—— (vii) Make a final determination whether construction should be approved, approved with conditions or disapproved~~

~~pursuant to this Section:~~

~~(viii) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Director made available preconstruction information and public comments relating to the facility or modification.~~

~~(3)~~ (2) Stack Heights

(a) Definitions. For purposes of this Section, the following ~~terms will have the meanings ascribed in this Paragraph words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:~~

1. "Emission limitation" and "emission standard" mean a requirement, established by ADEM or the EPA Administrator, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

2. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

3. "A stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

4. "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(i) Using that portion of a stack which exceeds good engineering practice stack height;

(ii) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(iii) Increasing final exhaust gas plume rise by manipulating source-process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other

selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

(iv) The preceding sentence does not include:

(I) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream:

(II) The merging of exhaust gas streams where:

I. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams:

II. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

III. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Director shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Director shall deny credit for the effects of such merging in calculating the allowable emissions for the source:

(III) Smoke management in agricultural or silvicultural prescribed burning programs:

(IV) Episodic restrictions on residential woodburning and open burning; or

(V) Techniques under Subdivision ~~335-3-14-.03(3)~~ ~~(a)4.(iii)~~ 335-3-14-.03(2)(a)4.(iii) which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

5. "Good engineering practice" (GEP) stack height means the greater of:

(i) 65 meters measured from the ground-level



elevation at the base of the stack:

(ii) (I) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required under 40 CFR 51 and 52, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;

$$H_g = 2.5H.$$

(II) For all other stacks,

$$H_g = H + 1.5 L,$$

where

$H_g$  = good engineering practice stack height measured from the ground-level elevation at the base of the stack,

$H$  = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

$L$  = lesser dimension, height or projected width of nearby structure(s),

provided that the Director may require the use of a field study or fluid model to verify GEP stack height for the source; or

(iii) The height demonstrated by a fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

6. "Nearby" as used in Subparagraph ~~335-3-14-.03~~ ~~(3)(a)5-~~ 335-3-14-.03(2)(a)5. of this Paragraph is defined for a specific structure or terrain feature and

(i) for purposes of applying the formulas provided in Subdivision ~~335-3-14-.03(3)(a)5.~~ ~~(ii)~~ 335-3-14-.03(2)(a)5. (ii) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile), and

(ii) for conducting demonstrations under Subdivision ~~335-3-14-.03(3)(a)5.~~ ~~(iii)~~ 335-3-14-.03(2)(a)5. (iii) means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height ( $h_t$ ) of the feature, not to exceed 2 miles if such

feature achieves a height ( $h_t$ ) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in Subdivision ~~335-3-14-.03(3)(a)5.(ii)(II)~~ 335-3-14-.03(2)(a)5.(ii)(II) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

7. "Excessive concentration" is defined for the purpose of determining GEP stack height under Subdivision ~~16.3.3(a)(5)(iii)~~ 335-3-14-.03(2)(a)5.(iii) and means:

(i) for sources seeking credit for stack height exceeding that established under Subdivision ~~335-3-14-.03(3)(a)5.(ii)~~ 335-3-14-.03(2)(a)5.(ii), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than a NAAQS. For sources subject to the PSD program (Rule 335-3-14-.04), and excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emissions rate to be used in making demonstrations under this Rule shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator;

(ii) for sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under Subdivision ~~335-3-14-.03(3)(a)5.(ii)~~ 335-3-14-.03(2)(a)5.(ii), either:

(I) a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects as provided in Subdivision ~~335-3-14-.03(3)(a)7.(i)~~ 335-3-14-.03(2)(a)7.(i), except that the emission rate specified elsewhere in these regulations (or, in the absence of such a limit, the actual emission rate) shall be used, or

(II) the actual presence of a local nuisance caused

by the existing stack, as determined by the Director; and

(iii) for sources seeking credit after January 12, 1979, for a stack height determined under Subdivision ~~335-3-14-.03(3)(a)5.(ii)~~ 335-3-14-.03(2)(a)5.(ii) where the Director requires that use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Subdivision ~~335-3-14-.03(3)(a)5.(ii)~~ 335-3-14-.03(2)(a)5.(ii), a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(b) Before acting on any Air Permit, the Director shall require that the degree of emission limitation required of any source for control of any air pollutants shall not be affected by so much of any source's stack height that exceeds GEP or by any other dispersion technique, except as provided in Paragraph ~~335-3-14-.03(3)(c)~~ 335-3-14-.03(2)(c).

(c) The provisions of Paragraph ~~335-3-14-.03(3)(b)~~ 335-3-14-.03(2)(b) shall not apply to stack heights in existence, or dispersion techniques implemented, prior to December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the Clean Air Act, which were constructed, or reconstructed or for which major modifications, as defined pursuant to Subparagraphs ~~335-3-14-.03(2)(b)4.~~ 335-3-14-.05(2)(d) and ~~335-3-14-.03(2)(b)1.~~ 335-3-14-.05(2)(a), were carried out after December 31, 1970.

(d) If any existing source, after appropriate application of the preceding limitations and provisions, is found to exceed or potentially exceed a NAAQS or PSD increment, when operating within previously established emission limitations, the emissions limitations applicable to that source shall be modified so as to eliminate and prevent the exceedance.

(e) If any new source or source modification, after appropriate application of the preceding limitations and provisions, is predicted to exceed a NAAQS or PSD increment when evaluated under emission limitations consistent with other applicable rules and regulations, the emission limitations considered shall be deemed inadequate and different emission limits, based on air quality considerations, shall be made applicable.

(f) If any source provides a field study or fluid modeling demonstration proposing a GEP stack height greater than that allowed by Subdivision ~~335-3-14-.03 (3)~~ ~~(a)5.(ii)~~ 335-3-14-.03(2)(a)5.(ii), then the public will be notified of the availability of the study and provided the opportunity for a public hearing before any new or revised emission limitation or permit is approved.

(g) The actual stack height used or proposed by a source shall not be restricted in any manner by requirements of this Section.

Author: James W. Cooper and John E. Daniel  
Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.  
History: Effective Date: January 18, 1972.  
Amended: April 3, 1979; February 13, 1980; March 24, 1981; March 23, 1982; February 13, 1985; November 13, 1985; September 18, 1986; June 9, 1987; May 4, 1988; September 21, 1989; November 1, 1990; October 30, 1992 .

335-3-14-.04 Air Permits Authorizing Construction in Clean Air Areas (Prevention of Significant Deterioration Permitting (PSD)).

(1) Effective Date. The requirements of this Rule shall be effective upon approval by the Environmental Protection Agency (EPA).

(2) Definitions. For the purposes of this Rule only, the following terms will have meanings ascribed in this Section:

(a)1. "Major Stationary Source" shall mean:

(i) Any of the following stationary sources (see Paragraph 335-3-14-.04(2)(e)) of air pollutants which emits, or has the potential to emit (see Paragraph 335-3-14-.04(2)(d)), 100 tons per year or more of any pollutant subject to regulation under the CAA, as amended, 42 U.S.C. 7401, et seq.: fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; coal cleaning plants (with thermal dryers); kraft pulp mills; portland cement plants; primary zinc smelters; iron and steel mill plants; primary aluminum ore reduction plants; primary copper smelters; municipal incinerators capable of charging more than 250 tons of refuse per day; hydrofluoric, sulfuric and nitric acid plants; petroleum refineries; lime plants; phosphate rock processing plants; coke oven batteries; sulfur recovery plants; carbon black plants (furnace process); primary lead smelters; fuel conversion plants; sintering plants; secondary metal production plants; chemical process plants; fossil fuel boilers (or combinations thereof) totaling more than 250

million British thermal units per hour heat input; petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels; taconite ore processing plants; glass fiber processing plants; and charcoal production plants;

(ii) Notwithstanding the stationary source size specified in Subdivision 335-3-14-.04(2)(a)(1)(i), any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the CAA; or

(iii) Any physical change that would occur at a stationary source not otherwise qualifying under Rule (a) as a major stationary source, if the changes would constitute a major stationary source by itself.

2. A stationary source that is considered major for VOC shall be considered major for ozone.

(b)1. "Major Modification" shall mean any physical change in or change in the method of operation of a major stationary source that would result in a significant (see Paragraph 335-3-14-.04(2)(w)) net emissions increase (see Paragraph 335-3-14-.04(2)(c)) of any pollutant subject to regulation under the CAA.

2. Any net emissions increase that is significant for VOC shall be considered significant for ozone.

3. A physical change or change in the method of operation shall not include:

(i) Routine maintenance, repair and replacement;

(ii) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (P.L. 93-319, 15 U.S.C. 791 note) or any superseding legislation, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act (June 10, 1920, P.L. 280, 16 U.S.C. 791a);

(iii) Use of an alternative fuel by reason of an order or rule under Section 125 of the CAA;

(iv) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternative fuel or raw material by a stationary source which:

(I) The source was capable of accommodating before

January 6, 1975, unless such change would be prohibited under any enforceable permit condition which was established after January 6, 1975.

(II) The source is approved to use under any permit issued under the Federal Prevention of Significant Deterioration ("PSD") regulations (40 CFR 52.21) or under regulations of this Rule;

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit condition which was established after January 6, 1975.

(vii) Any change in ownership at a stationary source.

7(c)1. "Net Emissions Increase" shall mean the amount by which the sum of the following exceeds zero:

(i) Any increase in actual emissions (see Paragraph 335-3-14-.04(2)(u)) from a particular physical change or change in method of operation at a stationary source; and

(ii) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

2. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(i) The date five (5) years before construction (see Paragraph 335-3-14-.04(2)(h)) on the particular change commences (see Paragraph 335-3-14-.04(2)(i)); and

(ii) The date that the increase from the particular change occurs.

3. An increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit for the source under this Rule, which is in effect when the increase in actual emissions from the particular change occurs.

4. An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date (see Paragraph 335-3-14-.04(2)(n)2.) is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

5. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

6. A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions (see Paragraph 335-3-14-.04 (2)(p)), whichever is lower, exceeds the new level of actual emissions;

(ii) It is enforceable (see Paragraph 335-3-14-.04 (2)(q)) at and after the time that actual construction on the particular change begins; and

(iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

7. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(d) "Potential To Emit" shall mean the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions (see Paragraph 335-3-14-.04(2)(r)) do not count in determining the potential to emit of a stationary source.

(e) "Stationary Source" shall mean any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the CAA.

(f) "Building, Structure, Facility, or Installation" shall mean all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same first two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

(g) "Emissions Unit" shall mean any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the CAA.

(h) "Construction" shall mean any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(i) "Commence" as applied to construction of a major stationary source or major modification shall mean that the owner or operator has all necessary preconstruction approvals or permits (see Paragraph 335-3-14-.04(2)(j)) and either has:

1. Begun, or caused to begin, a continuous program of actual on-site construction (see Paragraph 335-3-14-.04(2)(k)) of the source, to be completed within a reasonable time; or

2. Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(j) "Necessary Preconstruction Approvals or Permits" shall mean those permits or approvals required under Alabama air quality control laws and regulations which are part of the State Implementation Plan.

(k) "Begin Actual Construction" shall mean, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(l) "Best Available Control Technology (BACT)" shall mean an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under the CAA which would be emitted from any proposed major stationary source or major modification which the Director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems and



techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR 60 and 61. If the Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results.

(m)1. "Baseline Concentration" shall mean that ambient concentration level which exists in the baseline area (see Paragraph 335-3-14-.04(2)(o)) at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) The actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in Subparagraph 335-3-14-.04(2)(m)2.;

(ii) The allowable emissions of major stationary sources which commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

2. The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) Actual emissions from any major stationary source on which construction commenced after the major source baseline date; and

(ii) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

(n)1. "Major Source Baseline Date" means:

(i) In the case of particulate matter and sulfur dioxide, January 6, 1975, and

(ii) In the case of nitrogen dioxide, February 8, 1988.

2. "Minor Source Baseline Date" means the earliest date after the trigger date on which the first complete (see Paragraph 335-3-14-.04(2)(v)) application is submitted by a major stationary source or major modification subject to the requirements of Federal PSD regulations or this Part. The trigger date is:

(i) In the case of particulate matter and sulfur oxides, August 7, 1977, and

(ii) In the case of nitrogen dioxide, February 8, 1988.

3. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(i) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d)(1) (D) or (E) of the CAA for the pollutant on the date of its complete application under Federal PSD regulations or this Rule.

(ii) In the case of a major stationary source, the pollutant would be emitted in significant amounts or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(o) "Baseline Area" shall mean any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1) (D) or (E) of the CAA in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than one (1) microgram per cubic meter (annual average) of the pollutant for which the minor source baseline date is established.

(p) "Allowable Emissions" shall mean the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

1. The applicable standards as set forth in 40 CFR 60 and 61;

2. The applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

3. The emissions rate specified as an enforceable permit condition, including those with a future compliance

date.

(q) "Enforceable" shall mean all limitations and conditions which are enforceable, including those requirements developed pursuant to 40 CFR 60 and 61, requirements within the State Implementation Plan and any permit requirements established pursuant to 40 CFR 51.18, 40 CFR 52.21 or this Chapter.

(r) "Secondary Emissions" shall mean emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this Rule, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

1. Emissions from ships or trains coming to or from the new or modified stationary source; and

2. Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(s) "Innovative Control Technology" shall mean any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

(t) "Fugitive Emissions" shall mean those emissions which could not reasonably pass through a stack, chimney, vent, roof monitor, or other functionally equivalent opening.

(u)1. "Actual Emissions" shall mean the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with Subparagraphs 335-3-14-.04 (2) (u) (2) through (u) (4) below.

2. In general, actual emissions as of any given date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the given data and which is representative of normal source operation. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated

using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

3. The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

4. For any emissions unit which has not begun normal operations on the given date as determined in Subparagraph 335-3-14-.04(2)(u)2., actual emissions shall equal the potential to emit of the unit on that date.

(v) "Complete" shall mean, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(w)1. "Significant" shall mean, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate  
(tons per year)

Carbon monoxide.....	100
Nitrogen oxides.....	40
Sulfur dioxide.....	40
Particulate matter.....	25
PM <sub>10</sub> .....	15
Ozone.....	40 (of VOC)
Lead.....	0.6
<del>Asbestos.....</del>	<del>0.007</del>
<del>Beryllium.....</del>	<del>0.0004</del>
<del>Mercury.....</del>	<del>0.1</del>
<del>Vinyl chloride.....</del>	<del>1</del>
Fluorides.....	3
Sulfuric acid mist.....	7
Hydrogen sulfide (H <sub>2</sub> S).....	10
Total reduced sulfur (including H <sub>2</sub> S)....	10
<del>Reduced sulfur compound (including H<sub>2</sub>S)....</del>	<del>10</del>
<del>Arsenic.....</del>	<del>0.044</del>
<del>Benzene.....</del>	<del>0.110</del>

2. Reserved.

3. Notwithstanding Subparagraph 335-3-14-.04(2)(w)1., significant shall mean any emissions rate or any net emissions increase associated with a major stationary source or major modification which would construct within ten (10) kilometers of a Class I area and have an impact on such area equal to or greater than one (1) microgram per cubic meter (24-hour average).

(x) "Federal Land Manager" shall mean, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

(y) "High Terrain" shall mean any area having an elevation 900 feet or more above the base of the stack of a source.

(z) "Low Terrain" shall mean any area other than high terrain.

(aa) "Indian Governing Body" shall mean the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(bb) "Indian Reservation" shall mean any Federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(cc) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.

(dd) "Visibility impairment" means any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

(ee) "Natural conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(3) Ambient Air Increments. In areas designated as Class I, II or III, increases in pollutant concentration over the baseline shall be limited to the following:

Maximum Allowable Increase  
(micrograms per cubic meter)

Class I

Pollutant

Total suspended particulates:

Annual geometric mean.....	5
24-hour maximum.....	10

Sulfur dioxide:

Annual arithmetic mean.....	2
24-hour maximum.....	5
3-hour maximum.....	25

Nitrogen dioxide:

Annual arithmetic mean.....	2.5
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Class II

Total suspended particulates:

Annual geometric mean.....	19
24-hour maximum.....	37

Sulfur dioxide:

Annual arithmetic mean.....	20
24-hour maximum.....	91
3-hour maximum.....	512

Nitrogen dioxide:

Annual arithmetic mean.....	25
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## Class III

## Total suspended particulates:

Annual geometric mean.....	37
24-hour maximum.....	75

## Sulfur dioxide:

Annual arithmetic mean.....	40
24-hour maximum.....	182
3-hour maximum.....	700

## Nitrogen dioxide:

Annual arithmetic mean.....	50
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For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

(4) Ambient Air Ceilings. No concentration of a pollutant shall exceed:

(a) The concentration permitted under the National Secondary Ambient Air Quality Standard, or

(b) The concentration permitted under the National Primary Ambient Air Quality Standard, whichever concentration is lowest for the pollutant for a period of exposure.

(5) Area Classifications.

(a) The following area, which was in existence on August 7, 1977, shall be a Class I area and may not be redesignated:

The Sipsey Wilderness Area, located in Franklin, Winston, and Lawrence counties, Alabama.

(b) Any other area is initially designated Class II:

(6) Exclusions from Increment Consumption.

(a) The following concentrations shall be excluded in determining compliance with a maximum allowable increase:

1. Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions

from such sources before the effective date of such an order;

2. Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

3. Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

4. The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and

5. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen oxides from stationary sources which are affected by plan revisions approved by the EPA as being exempt from increment consumption.

(b) No exclusion of such concentrations shall apply for more than five (5) years after the effective date of the order to which Paragraph 335-3-14-.04(6)(a)1. or the plan to which Paragraph 335-3-14-.04(6)(a)2. refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply for more than five (5) years after the later of such effective dates.

(7) Reserved.

(8) Review of Major Stationary Sources and Major Modification - Source Applicability and Exemptions.

(a) No major stationary source or major modification shall begin actual construction unless, as a minimum, requirements contained in Sections 335-3-14-.04(9) through 335-3-14-.04(17) of this Rule have been met.

(b) The requirements contained in Sections 335-3-14-.04(9) through 335-3-14-.04(17) shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under the CAA that it would emit, except as this Section would otherwise allow.

(c) The requirements contained in Sections 335-3-14-.04(9) through 335-3-14-.04(17) apply only to any major stationary source or major modification that would be



constructed in an area designated as attainment or unclassified under Section 107(d)(1) (D) or (E) of the CAA.

(d) The requirements contained in Sections 335-3-14-.04(9) through 335-3-14-.04(17) shall not apply to a major stationary source or major modification, if:

1. Reserved.

2. Reserved.

3. Reserved.

4. Reserved.

5. Reserved.

6. The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution; or

7. The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification, and the source does not belong to any of the following categories:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a

- total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
- (xxvii) Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the CAA; or

8. The source is a portable stationary source which has previously received a permit under this Rule; and

(i) The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary; and

(ii) The emissions from the source would not exceed its allowable emissions; and

(iii) The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

(iv) Reasonable notice is given to the Director prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the Director not less than ten (10) days in advance of the proposed relocation unless a different time duration is previously approved by the Director.

(e) The requirements of Sections 335-3-14-.04(9) through 335-3-14-.04(17) shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under Section 107 of the CAA.

(f) The requirements of Sections 335-3-14-.04(10), 335-3-14-.04(12), and 335-3-14-.04(14) shall not apply to a major stationary source or major modification with respect to a particular pollutant if the allowable emissions of that pollutant from the source or the net emissions increase of that pollutant from the modification:

1. Would impact no Class I area and no area where an applicable increment is known to be violated, and
2. Would be temporary.

(g) The requirements of Sections 335-3-14-.04(10),

335-3-14-.04(12), and 335-3-14-.04(14) as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each pollutant subject to regulation under the CAA from the modification after the application of BACT would be less than 50 tons per year.

(h) The Director may exempt a stationary source or modification from the requirements of Section 1335-3-14-.04(12) with respect to monitoring for a particular pollutant if:

1. The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts which are less than the following amounts:

Carbon monoxide - 575 ug/m<sup>3</sup>, 8-hour average;

Nitrogen dioxide - 14 ug/m<sup>3</sup>, annual average;

Total suspended particulate - 10 ug/m<sup>3</sup>,  
24-hour average;

PM<sub>10</sub> - 10 ug/m<sup>3</sup>, 24-hour average

Sulfur dioxide - 13 ug/m<sup>3</sup>, 24-hour average;

Ozone;<sup>1</sup>

Lead - 0.1 ug/m<sup>3</sup>, 3-month average;

~~Mercury - 0.25 ug/m<sup>3</sup>, 24-hour average;~~

~~Beryllium - 0.001 ug/m<sup>3</sup>, 24-hour average;~~

Fluorides - 0.25 ug/m<sup>3</sup>, 24-hour average;

~~Vinyl chloride - 15 ug/m<sup>3</sup>, 24-hour average;~~

Total reduced sulfur - 10 ug/m<sup>3</sup>, 1-hour average;

Hydrogen sulfide - 0.2 ug/m<sup>3</sup>, 1-hour average;

~~Reduced sulfur compounds - 10 ug/m<sup>3</sup>, 1-hour average;~~

or

2. The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in Subparagraph 335-3-14-.04(8)(h)1., or the pollutant is not listed in Subparagraph 335-3-14-.04(8)(h)1.

<sup>1</sup>No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of VOC subject to Rule 335-3-14-.04 would be required to perform an ambient impact analysis including the gathering of ambient air quality data.

3. The owner or operator of the stationary source or modification submits an application under this Section that the Director determines is complete, except with respect to the requirements for monitoring PM<sub>10</sub> in Section 335-3-14-.04(12), on or before June 1, 1988. If a complete permit application is received after June 1, 1988, but not later than December 1, 1988, the requirements for PM<sub>10</sub> monitoring under Section 335-3-14-.04(12) apply in that data shall have been gathered over at least the period from February 1, 1988 to the date the complete application is received, except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months) then the shorter period of data gathering will suffice to meet the requirements of Section 335-3-14-.04(12).

(i) Reserved.

(j) Reserved.

(k) At the discretion of the Director, the requirements for air quality monitoring of PM<sub>10</sub> in Subparagraphs 335-3-14-.04(12)(a)1. through 4. may not apply to a particular source or modification when the owner or operator of the source or modification submits an application for a permit under this Rule on or before June 1, 1988 and the Director subsequently determines that the application as submitted before that date was complete, except with respect to the requirements for monitoring PM<sub>10</sub> in Subparagraphs 335-3-14-.04(12)(a)1. through 4.

(l) The requirements for air quality monitoring of PM<sub>10</sub> in Subparagraphs 335-3-14-.04(12)(a)2. and 4. and Paragraph 335-3-14-.04(12)(c) shall apply to a particular source or modification if the owner or operator of the source of modification submits an application for permit under this Rule after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions set forth under Subparagraph 335-3-14-.04(12)(a)8., except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that Subparagraph 335-3-14-.04(12)(a)3. requires shall have been gathered over that shorter period.

(9) Control Technology Review.

(a) A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable limitation

standard and standard of performance under 40 CFR 60 and 61.

(b) A new major stationary source shall apply BACT for each pollutant subject to regulation under the CAA that it would have the potential to emit in significant amounts.

(c) A major modification shall apply BACT for each pollutant subject to regulation under the CAA for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed

emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(d) For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than eighteen (18) months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.

(10) Source Impact Analysis. The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

(a) Any National Ambient Air Quality Standard in any air quality control region; or

(b) Any applicable maximum allowable increase over the baseline concentration in any area.

(11) Air Quality Models.

(a) All estimates of ambient concentrations required under this Section shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models". (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711)

(12) Air Quality Analysis.

(a) Preapplication Analysis.

1. Any application for a permit under this Rule shall

contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

(i) For the source, each pollutant that it would have the potential to emit in a significant amount;

(ii) For the modification, each pollutant for which it would result in a significant net emissions increase.

2. With respect to any such pollutant for which no NAAQS exists, the analysis shall contain such air quality monitoring data as the Director determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

3. With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

4. In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one (1) year and shall represent the year preceding receipt of the application, except that, if the Director determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year (but not to be less than four (4) months), the data that is required shall have been gathered over at least that shorter period.

5. Reserved.

6. The owner or operator of a proposed stationary source or modification of VOC who satisfies all conditions of Section ~~335-3-14-.03(2)~~ 335-3-14-.05 may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under Paragraph 335-3-14-.04(12) (a).

7. For any application that becomes complete, except as the requirements of Subparagraph 335-3-14-.04(12) (a)3. and 4. pertaining to PM<sub>10</sub>, after December 1, 1988 and no later than August 1, 1989 the data that Subparagraph 335-3-14-.04(12) (a)3. requires shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that Subparagraph 335-3-14-.04(12) (a)3. requires shall have been

gathered over that shorter period.

8. With respect to any requirements for air quality monitoring of PM<sub>10</sub> under Paragraphs 335-3-14-.04(8)(k) and (l), the owner or operator of the source or modification shall use a monitoring method approved by the Director and shall estimate the ambient concentrations of PM<sub>10</sub> using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Director.

(b) Post-construction Monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the Director determines is necessary to determine the impact for said source or modification may have, or is having, on air quality in any area.

(c) Operations of Monitoring Stations. The owner or operator of a major stationary source or major modification shall meet Federal monitoring quality assurance requirements during the operation of monitoring stations for purposes of satisfying Section 335-3-14-.04(12).

(d) Visibility monitoring. The Director may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the Director deems necessary and appropriate.

(13) Source Information. The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or to make any determination required under this Rule.

(a) With respect to a source or modification to which Sections 335-3-14-.04(9), 335-3-14-.04(10), 335-3-14-.04(12), and 335-3-14-.04(14) apply, such information shall include:

1. A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

2. A detailed schedule for construction of the source or modification;

3. A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates and any other information necessary to determine that BACT would be applied.

(b) Upon request of the Director, the owner or



operator shall also provide information on:

1. The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

2. The air quality impacts and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

(14) Additional Impact Analyses.

- (a) The owner or operator shall provide an analysis of the impact on visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

- (b) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

(15) Sources Impacting Federal Class I Areas - Additional Requirements.

- (a) Notice to Federal Land Managers and to EPA. The Director shall provide notice of any permit application for a proposed major stationary source or major modification the emissions from which would affect a Class I area to EPA, the Federal Land Manager and the Federal official charged with direct responsibility for management of any lands within any such area. The Director shall provide such notice promptly after receiving the application. The Director shall also provide EPA, the Federal Land Manager and such Federal officials with notice of every action related to the consideration of such permit.

- (b) The Director shall notify all affected Federal Land Managers within 30 days of receipt of an advance notification of any permit application for a proposed major stationary source or modification, the emissions from which may affect a Class I Area. The Director shall provide written notification to all affected Federal Land Managers within 30 days of receiving the permit application. At least 30 days prior to the publication of the notice for public comment on the application, the Director shall provide the Federal Land Manager with a copy of all information relevant to the permit application including an analysis provided by the source of the

potential impact of the proposed source on visibility.

(c) Visibility analysis. The Director shall consider any analysis performed by the Federal Land Manager concerning visibility impairment if the analysis is received within 30 days of being provided the permit application information and analysis required by Paragraph 335-3-14-.04(15)(b). Where the Director finds that such an analysis does not demonstrate to the satisfaction of the Director that an adverse impact on visibility will result in the Federal Class I area, the Director must, in the notice of public comment on the permit application, either explain his decision or give notice as to where the explanation can be obtained.

(d) Denial - Impact on Air Quality Related Values. The Federal Land Manager of any such lands may demonstrate to the Director that the emissions from a proposed source or modification would have an adverse impact on the air quality related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Director concurs with such demonstration, then he shall not issue the permit.

(e) Class I Variances. The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and he so certifies, the Director may issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide, ~~and~~ particulate matter, and nitrogen oxides would not exceed the following maximum allowable increases over baseline concentration for such pollutants:

Maximum Allowable Increase  
(micrograms per cubic meter)

Total suspended particulates:

Annual geometric mean.....	19
24-hour maximum.....	37
Sulfur dioxide:	
Annual arithmetic mean.....	20
24-hour maximum.....	91
3-hour maximum.....	325
Nitrogen dioxide:	
Annual arithmetic mean.....	25

provided, that the applicable requirements of this Rule are otherwise met.

(f) Sulfur Dioxide Variance by Governor with Federal Land Manager's Concurrence. The owner or operator of a proposed source or modification which cannot be approved under Paragraph 335-3-14-.04(15)(c) may demonstrate to the Governor that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four (24) hours or less applicable to any Class I area and, in the case of Federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the Director shall issue a permit to such source or modification pursuant to the requirements of Paragraph 335-3-14-.04(15)(f): provided, that the applicable requirements of this Rule are otherwise met.

(g) Variance by the Governor with the President's Concurrence. In any case where the Governor recommends a variance in which the Federal Land Manager does not concur, the recommendations of the Governor and Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if he finds that the variance is in the national interest. If the variance is approved, the Director shall issue a permit pursuant to the requirements of Paragraph 335-3-14-.04(15)(f): provided, that the applicable requirements of this Rule are otherwise met.

(h) Emission Limitations for Presidential or Gubernatorial Variance. In the case of a permit issued pursuant to Paragraphs 335-3-14-.04(15)(d) or (e), the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to

concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual period:

Maximum Allowable Increase  
(micrograms per cubic meter)

Period of exposure	Terrain areas	
	Low	High
24-hour maximum.....	36	62
3-hour maximum.....	130	221

(16) Public Participation.

(a) After receipt of an application for an Air Permit or any addition to such application, the Director shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this Rule, the date on which the Director received all required information.

(b) Within one (1) year after receipt of a complete application, the Director shall make a final determination of the application. This involves performing the following actions in a timely manner:

1. Make a preliminary determination whether construction should be approved, approved with conditions or disapproved.

2. Make available in at least one location in each region in which the proposed source or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.

3. Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source or modification would be constructed, of the application, the preliminary determination, the degree of

increment consumption that is expected from the source or modification, and the opportunity for written public comment, as well as comment at a public hearing.

4. Send a copy of the notice of public comment to the applicant, to EPA and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: any other State or local air pollution control agencies, the chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification.

5. Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.

6. Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Director shall consider the applicant's response in making a final decision. The Director shall make all comments available for public inspection in the same locations where the Director made available preconstruction information relating to the proposed source or modification.

7. Make a final determination whether construction should be approved, approved with conditions or disapproved pursuant to this Rule.

8. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Director made available preconstruction information and public comments relating to the source or modification.

(17) Source Obligation.

(a) An Air Permit authorizing construction shall become invalid if construction is not commenced within twenty-four (24) months after receipt of such approval, if construction is discontinued for a period of twenty-four (24) months or more, or if construction is not completed within a reasonable time. The Director may extend the twenty-four (24) month period upon satisfactory showing

that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within twenty-four (24) months of the projected and approved commencement date.

(b) An Air Permit authorizing construction shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, State or Federal law.

(c) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Sections 335-3-14-.04(9) through 335-3-14-.04(17) shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(18) Innovative Control Technology.

(a) An owner or operator of a proposed major stationary source or major modification may request the Director in writing no later than the close of the comment period under Section 335-3-14-.04(16) to approve a system of innovative control technology.

(b) The Director shall determine that the source or modification may employ a system of innovative control technology, if:

1. The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function;

2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Paragraph by a date 335-3-14-.04(9)(b) specified by the Director. Such date shall not be later than four (4) years from the time of startup or seven (7) years from permit issuance;

3. The source or modification would meet the requirements of Sections 335-3-14-.04(9) and (10) based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Director;

4. The source or modification would not before the date specified by the Director:

(i) Cause or contribute to a violation of an applicable National Ambient Air Quality Standard; or

(ii) Impact any Class I area; or

(iii) Impact any area where an applicable increment is known to be violated; and

5. The consent of the Governor of any other affected state is secured;

6. All other applicable requirements including those for public participation have been met.

(c) The Director shall withdraw any approval to employ a system of innovative control technology made under this Section, if:

1. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or

3. The Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety.

(d) If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with Paragraph 335-3-14-.04(18)(c), the Director may allow the source or modification up to an additional three (3) years to meet the requirement for the application of BACT through use of a demonstrated system of control.

(19) Permit Rescission.

(a) Any owner or operator of a stationary source or modification who holds a permit for the source or modification which was issued under Rule 335-3-14-.04 as in effect on July 30, 1987 or any earlier version of this Rule, may request that the Director rescind the permit or a particular portion of the permit.

(b) The Director shall grant an application for rescission if the application shows that this Rule would not apply to the source or modification.

(c) If the Director rescinds a permit under this Section, the public shall be given adequate notice of the

rescission. Publication of an announcement of rescission in a newspaper of general circulation in the affected region within sixty (60) days of the rescission shall be considered adequate notice.

Author: Marilyn G. Elliott

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: December 10, 1981.

Amended: February 13, 1985; November 13, 1985; November 1, 1990.

~~335-3-14-.05 Renewable Operating Permits.~~

~~—— (1) Definitions. For purposes of this Section, the following terms will have the meanings ascribed in this Paragraph:~~

~~—— (a) "major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person or persons under common control belonging to a single major industrial grouping) that is characterized by any of the following categories:~~

~~—— 1. emits or has the potential to emit 10 tons per year or more of any hazardous air pollutant which has been listed in section 112(b) in the Clean Air Act (except radionuclides) or 25 tons per year or more of any combination of such hazardous air pollutants. Emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources for hazardous air pollutants.~~

~~—— 2. emits or has the potential to emit 100 tons per year or more of any regulated pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source unless the source belongs to one of the following categories of stationary source:~~

- ~~—— (i) Coal cleaning plants (with thermal dryers)~~
- ~~—— (ii) Kraft pulp mills~~
- ~~—— (iii) Portland cement plants~~
- ~~—— (iv) Primary zinc smelters~~
- ~~—— (v) Iron and steel mills~~
- ~~—— (vi) Primary aluminum ore reduction plants~~
- ~~—— (vii) Primary copper smelters~~
- ~~—— (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day.~~
- ~~—— (ix) Hydrofluoric, sulfuric, or nitric acid~~



plants

- ~~(x) Petroleum refineries~~
- ~~(xi) Lime plants~~
- ~~(xii) Phosphate rock processing plants~~
- ~~(xiii) Coke oven batteries~~
- ~~(xiv) Sulfur recovery plants~~
- ~~(xv) Carbon black plants~~
- ~~(xvi) Primary lead smelters~~
- ~~(xvii) Fuel conversion plants~~
- ~~(xviii) Sintering plants~~
- ~~(xix) Secondary metal production plants~~
- ~~(xx) Chemical process plants~~
- ~~(xxi) Fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input~~
- ~~(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.~~
- ~~(xxiii) Taconite ore processing plants.~~
- ~~(xxiv) Glass fiber processing plants.~~
- ~~(xxv) Charcoal production plants~~
- ~~(xxvi) Fossil fuel fired steam electric plants of more than 250 million British thermal units per hour of heat input~~
- ~~(xxvii) All other stationary source categories regulated under sections 111 or 112 in the Clean Air Act.~~

~~(2) Any person who owns or operates a major source shall submit a permit application within one year of EPA approval of the Department's operating permit program as required by Title V of the Clean Air Act Amendments of 1990 or by November 15, 1995, whichever occurs first.~~

~~(3) On or before November 15, 1997, all major sources are required to have an operating permit.~~

~~(4) The director shall deny an operating permit if the applicant does not show that every article, machine, equipment, or other contrivance, those of which may cause the issuance of air contaminants, is so designed, controlled, or equipped with air pollution control equipment, that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of these rules and regulations.~~

~~(5) Operating permits shall be issued for a fixed term of 5 years.~~

Author: Richard E. Grusnick

Statutory Authority: ~~Code of Alabama 1975, §§ 22-20-14, 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.~~

History: ~~Effective Date: December 19, 1991.~~

Amended:-

335-3-14-.05 Air Permits authorizing construction in or near Nonattainment Areas.

(1) Effective Date. The requirements of this Rule shall be effective upon approval by EPA.

(2) Definitions. For purposes of this Rule, the following terms will have the meanings ascribed in this Paragraph:

(a). "Source" shall mean any building structure, installation, article, machine, equipment, device or other contrivance which emits or may emit any air contaminant. A facility is composed of one or more pollutant-emitting sources.

(b). "Potential to Emit" shall mean the maximum capacity to emit a pollutant under physical and operational design conditions. Any physical or operational limitation on the capacity to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as a part of the design only if the limitation or the effect it would have on emissions is enforceable. Secondary emissions are not calculated in determining the potential to emit.

(c).1 "Major Facility" shall mean:

(i) Any source or facility for which the potential emission rate is equal to or greater than 100 tons per year of any pollutant subject to regulation under the Federal Clean Air Act (CAA); or

(ii) Any physical change that would occur at a facility not qualifying under Subdivision 335-3-14-.05(2)(c)(1)(i) as a major facility, if the change would constitute a major facility by itself.

2 A major facility that is major for volatile organic compounds shall be major for ozone.

(d) "Major Modification" shall mean any physical change in, change in the method of operation of, or addition to a major facility which would result in a significant net emissions increase at the facility of any pollutant subject to regulation under the CAA.

1. A physical change or a change in method of operation shall not include:

(i) Routine maintenance, repair, and replacement:

(ii) Use of an alternative fuel or raw material by reason of an order in effect under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

(iii) Use of an alternative fuel by reason of an order or rule under Section 125 of the CAA;

(iv) Change in ownership of a source;

(v) Use of refuse derived fuel generated from municipal solid waste.

2. A change in the method of operation, unless limited by previous permit conditions, shall not include:

(i) An increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(ii) An increase in the hours of operation;

(iii) Use of an alternative fuel or raw material, if on December 21, 1976, the source was capable of accommodating such fuel or material.

(e) "Allowable Emissions" shall mean the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate, or hours of operation, or both) and the most stringent of the following:

1. Applicable New Source Performance Standards set forth in 40 CFR 60,

2. Applicable National Emission Standards for Hazardous Air Pollutants set forth in 40 CFR 61,

3. Applicable State Implementation Plan emission limitation, or

4. The emission rate specified as an enforceable permit condition.

(f) "Lowest Achievable Emission Rate" (LAER) shall mean, for any source, that rate of emissions based on whichever of the following is more stringent:

1. The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator

of the proposed source demonstrates that such limitations are not achievable, or

2. The most stringent emission limitation which is achieved in practice or can reasonably be expected to occur in practice by such class or category of sources taking into consideration the pollutant which must be controlled,

3. This term, applied to a modification, means the lowest achievable emission rate for the new or modified source within the facility. In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

(g) Reserved.

(h) Reserved.

(i) "Significant Impact" shall mean:

1. For particulate matter and sulfur dioxide, the following significant levels would be exceeded in the portion of the designated nonattainment area where the ambient air quality standards are actually violated.

	Annual	24-Hour	3-Hour
Particulate Matter	1 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>	
Sulfur Dioxide	1 ug/m <sup>3</sup>	5 ug/m <sup>3</sup>	25 ug/m <sup>3</sup>

2. For volatile organic compounds, any source locating outside the boundaries of a nonattainment area shall not be considered to have a significant impact on the nonattainment area.

(j) "Net Emissions Increase" shall mean

1. The amount by which the sum of the following exceeds zero:

(i) Any increase in actual emissions from a particular physical change or change in the method of operation, and

(ii) Any other increases and decreases in actual emissions that are contemporaneous with the particular change and are otherwise creditable.

2. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(i) The date five (5) years before construction on the particular change commences, and

(ii) The date that the increase from the particular change occurs.

3. An increase or decrease in actual emissions is creditable only if:

(i) It has not been relied on in issuing a permit to the facility which is in effect when the increase in actual emissions from the particular change occurs, and

(ii) It occurs after the effective date of this Section.

4. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

5. A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) It is enforceable at and after the time that actual construction on the particular change begins;

(iii) It has not been relied on in issuing any permit under the State Implementation Plan or in demonstrating attainment or reasonable further progress; and

(iv) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

6. An increase that results from a physical change occurs when the source on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(k) "Significant" shall mean, in reference to a net emissions increase or the potential of a source or facility to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate (tons per year)

Carbon monoxide: 100  
Nitrogen oxides: 40  
Sulfur dioxide: 40  
Ozone (volatile organic compounds): 40  
Lead: 0.6

(1)1. "Actual Emissions" shall mean the actual rate of emissions of a pollutant from a source as determined by Subdivisions (1)2. through 4.

2. In general, actual emissions as of any given date shall equal the average rate in tons per year at which the source actually emitted the pollutant during a two-year period which precedes the given date and which is representative of normal source operation. The use of a different time shall be allowed upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period.

3. The reviewing authority may presume that source-specific allowable emissions for the source are equivalent to the actual emissions of the source.

4. For any source which has not begun normal operations on the given date, actual emissions shall equal the potential to emit of the source on that date.

(m) "Construction" shall mean any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of a source) which would result in a change in actual emissions.

(n) "Commence", as applied to construction of a major facility or major modification, shall mean that the owner or operator has all necessary preconstruction approvals or permits and has either:

1. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

2. Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(o) "Necessary Preconstruction Approvals or Permits" shall mean those permits or approvals required under the State Implementation Plan.

(p) "Begin Actual Construction" shall mean, in general, initiation of physical on-site construction activities including, but not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(q) "Adverse Impact on Visibility" shall mean visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.

(r) "Visibility Impairment" shall mean any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

(s) "Natural Conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast or coloration.

(t) "Offset ratio" shall mean the ratio of total actual emissions reductions to total allowable emissions increases of such pollutant from the new source.

(3) Applicability. Except as provided in Paragraphs 335-3-14-.05(4), (5), and (6), no Air Permit shall be issued to a person proposing to construct or make a major modification to a major facility (for the pollutant for which the area has been designated nonattainment) in a nonattainment area or which will have a significant impact if located outside the nonattainment area unless:

(a) The person demonstrates that the new source or the major modification will meet an emission limitation, said emission limitation to be the lowest achievable emission rate (LAER) for that source or facility;

(b) The person certifies that all existing major sources owned or operated by that person (or any entity controlling, controlled by, or under common control with that person) within Alabama are in compliance with applicable emission limits or are on an acceptable schedule;

(c) The person demonstrates that emission reductions

from existing source(s) in the area of the proposed source/major modification (whether or not under the same ownership) meet the offset requirements of Paragraph 335-3-14-.05(6):

\_\_\_\_\_ (d) Reserved.

\_\_\_\_\_ (4) Exceptions.

\_\_\_\_\_ (a) Reserved.

\_\_\_\_\_ (b) Reserved.

\_\_\_\_\_ (c)1. A person proposing to construct or make a major modification to a major facility subject to the provisions of this Section, located in a nonurban nonattainment area (less than 200,000 population), shall be required to install LAER but shall not be required to obtain emission offsets as specified herein.

\_\_\_\_\_ 2. The provisions of Subdivision 335-3-14-.05(4)(c)1. are applicable to volatile organic compound sources only.

\_\_\_\_\_ (d) Construction of or modification to a major source locating in a nonattainment area which is projected to be attainment as of the startup date of such source shall be exempt from the requirements of this Section.

\_\_\_\_\_ (e) Reserved.

\_\_\_\_\_ (5) Temporary Emissions. The requirements of Subparagraph 335-3-14-.05(3)(c) shall not apply to emissions of a particular pollutant if the person applying for an Air Permit under this Section can demonstrate that the emissions of the pollutant are of a temporary nature including but not limited to those from a pilot plant, a portable facility, construction, or exploration; and notice is given to the Director at least thirty (30) days prior to relocation of such source identifying the proposed new location and the probable duration of operation at such location.

\_\_\_\_\_ (6) When a facility or modification subject to this Section may impair the visibility of a Federal Class I area, the following procedures shall be followed:

\_\_\_\_\_ (a) The facility shall provide an analysis of the impairment to visibility that would occur as a result of the facility or modification and general commercial, industrial and other growth associated with the facility or modification.

\_\_\_\_\_ (b) The Director shall notify all affected Federal Land Managers within 30 days of receipt of any advance



notification of a permit application for a proposed major stationary facility or modification, the emissions from which may affect a Class I Area. The Director shall provide written notification to all affected Federal Land Managers within 30 days of receiving the permit application. At least 30 days prior to the publication of the notice for public comment on the application, the Director shall provide the Federal Land Manager with a copy of all information relevant to the permit application including an analysis provided by the facility of the potential impact of the proposed facility on visibility.

(c) The Director shall consider any analysis concerning visibility impairment performed by the Federal Land Manager if the analysis is received within 30 days of being provided the permit application information and analysis required in Subparagraph 335-3-14-.05(6)(b). If the Director finds that the analysis of the Federal Land Manager fails to demonstrate to his satisfaction that an adverse impact on visibility will result in the Federal Class I area, the Director shall provide in the notice for public comment on the application, an explanation of his decision or notice as to where the explanation can be obtained.

(d) The Director may require monitoring of visibility in any Class I area near the proposed new facility or modification.

(e) The requirements of this Paragraph shall not apply to a particular major stationary facility or major modification, if the facility or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the Governor of Alabama requests that it be exempt from those requirements;

#### (7) Offset Standards.

(a) Increased emissions by a source or facility subject to this Section must be offset by a reduction in the emissions of that pollutant by the source itself or by other sources in the area to the extent necessary to prevent interference with reasonable further progress toward attainment.

1. The offset ratio for ozone (marginal) nonattainment areas shall be at least 1.1 to 1.

2. The offset ratio for all other nonattainment areas shall be at least 1.0 to 1.

(b) When a major source or modification, which is otherwise subject to the requirements of this Paragraph,

will result in a specific and well defined increase in secondary emissions, which can be accurately quantified and which will impact the same nonattainment area, these emissions shall be offset in accordance with the requirements of this Paragraph.

(c) The baseline for determining credit for emission offsets of any source shall be the allowable emissions of said source or the existing emissions of said source, not including any malfunctions, whichever is less.

(d) Reduced allowable emissions from an existing source due to a change to a cleaner fuel may be used to offset emissions from the new source or alteration so long as the change will occur at some future date. Emission reductions from a change of fuel shall not be used to offset emissions if there are not adequate supplies of the new fuel available.

(e) Offsets shall be made on a tons-per-year basis when all facilities involved in the emission offset calculations are operating at their maximum expected production rate. However, a source may be credited with emission reductions achieved by the shutdown of a source or the curtailment of production of a source below that which existed at the time the application was submitted, provided that the work force to be affected has been notified of the proposed shutdown or curtailment.

(f) All emission reductions used for offsets must be legally enforceable in a manner approved by the Director.

(8) Reserved.

(9) Banking of Emission Offsets. Offsets approved after January 16, 1979, which exceed the requirement of reasonable further progress may be "banked" for future use; likewise, reductions in emissions from existing sources which exceed the requirement of reasonable further progress may be "banked" for future use. The banking is subject to the following requirements:

(a) 1. Application shall be made in writing to the Director, describing the emission offsets to be banked, such description to include location, source, and type of emissions.

2. Emission offsets cannot be banked beyond the allowable emissions of said source or the existing emission of said source, not including any malfunctions, whichever is less.

(b) Upon approval by the Director of said application, the banked emissions shall be credited to the

facility submitting such application.

(c)1. No emission offsets banked in accordance with the provisions of this Paragraph shall be used unless written notice is provided to the Director thirty (30) days prior to submission of the necessary permit applications, to provide opportunity for review of the proposed use of the banked emission offsets.

2. In the event that a determination is made that the banked emission offsets may not be used for the proposed construction, written notice shall be afforded the applicant, as provided in Section 335-3-14-.02(3), herein.

(d) In the event that a determination under Subdivision 335-3-14-.05(9)(c)2. is made by the Director, construction may proceed if, and only if, emission offsets are obtained sufficient to satisfy the requirements of Paragraph 335-3-14-.05(7).

(e) Nothing contained in this Paragraph shall prohibit the transfer, assignment, sale, or otherwise complete disposition of said banked emission offsets, provided that written notice is provided to the Director, thirty (30) days prior to such disposition, describing in detail the recipient of the banked emissions.

(10) Reserved.

(11) At such time that a particular source or facility or modification becomes a major facility or major modification solely by virtue of a relaxation in any enforceable limitation established after August 7, 1980, on the capacity of the source, facility or modification otherwise to emit a pollutant, then the requirements of this Section shall apply as though construction had not yet commenced.

(12) The requirements of this Rule shall not apply to a particular major stationary facility or major modification if:

(a) The major facility or major modification was not subject to this Section as in effect on November 26, 1979, or to the Federal Emission Offset Interpretative Ruling as in effect January 18, 1979, if the owner or operator:

1. Obtained all necessary preconstruction approval before August 7, 1980;

2. Commenced construction within 18 months from August 7, 1980; and

3. Did not discontinue construction for a period of

(18) eighteen months or more and completed construction within a reasonable time or

(b) The facility or modification would be a major stationary facility or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary facility or modification and the facility does not belong to any of the following categories:

1. Coal cleaning plants (with thermal dryers);
2. Kraft pulp mills;
3. Portland cement plants;
4. Primary zinc smelters;
5. Iron and steel mills;
6. Primary aluminum ore reduction plants;
7. Primary copper smelters;
8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
9. Hydrofluoric, sulfuric or nitric acid plants;
10. Petroleum refineries;
11. Lime plants;
12. Phosphate rock processing plants;
13. Coke oven batteries;
14. Sulfur recovery plants;
15. Carbon black plants (furnace process)
16. Primary lead smelters;
17. Fuel conversion plants;
18. Sintering plants;
19. Secondary metal production plants;
20. Chemical process plants;
21. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
22. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
23. Taconite ore processing plants;
24. Glass fiber processing plants;
25. Charcoal production plants;
26. Any other stationary category which, as of August 7, 1980 is being regulated under Sections 111 or 112 of the Clean Air Act;

(13) Public Participation.

(a) After receipt of an application to construct or any addition to such application, the Director shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this Rule the date on which the Director received all required information.

(b) Within one (1) year after receipt of a complete application, the Director shall make a final determination of the application. This involves performing the following actions in a timely manner:

1. Make a preliminary determination whether construction should be approved, approved with conditions or disapproved.

2. Make available in at least one location in each region in which the proposed facility or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.

3. Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed facility or modification would be constructed, of the application, the preliminary determination, and the opportunity for written public comment, as well as comment at a public hearing.

4. Send a copy of the notice of public comment to the applicant, to EPA and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: any other state or local air pollution control agencies, the chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the facility or modification.

5. Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the facility or modification, the control technology required, and other appropriate considerations.

6. Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Director shall consider the applicant's response in making a final decision. The Director shall make all comments available for public inspection in the same locations where the Director made available preconstruction information relating to the proposed facility or modification.

7. Make a final determination whether construction should be approved, approved with conditions or disapproved pursuant to this Section.

8. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Director made available preconstruction information and public comments relating to the facility or modification.

Author: James W. Cooper and John E. Daniel

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: January 18, 1972.

Amended: April 3, 1979; February 13, 1980; March 24, 1981; March 23, 1982; February 13, 1985; November 13, 1985; September 18, 1986; June 9, 1987; May 4, 1988; September 21, 1989; November 1, 1990; October 30, 1992 .

## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

## Air Division

## Chapter 335-3-15

## Synthetic Minor Operating Permit

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335-3-15-.01 Definitions. For the purpose of this Chapter only, the following terms will have the meanings ascribed in this Rule.

(a) "Act" shall mean the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.

(b) "Air Permit" shall mean any permit issued pursuant to the regulations in ADEM Admin. Code R. 335-3-14..

(c) "Department" shall mean the Alabama Department of Environmental Management.

(d) "Operating Permit" shall mean any permit issued pursuant to the regulations in ADEM Admin. Code R. 335-3-16..

(e) "Potential Major Source" shall mean any major source as defined in ADEM Admin. Code R. 335-3-16-.01 whose actual emissions are less than the major source thresholds.

(f) "Stationary Source" shall mean any building, structure, facility, or installation that emits or may emit any regulated air pollutant as defined in ADEM Admin. Code R. 335-3-16-.01 or any pollutant listed in Appendix G of this Administrative Code.

(g) "Synthetic Minor Operating Permit" shall mean a permit which restricts a source's potential to emit so that it is a Synthetic Minor Source.

(h) "Synthetic Minor Source" shall mean a source whose potential to emit is restricted to less than a major source threshold as defined in ADEM Admin. Code R. 335-3-16-.01.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-15-.02 General Provisions.

(1) Any Potential Major Source operating without an Air Permit, an Operating Permit or a Synthetic Minor Operating Permit may continue to operate (or may restart) only if its owner or operator obtains a Synthetic Minor Operating Permit or an Operating Permit prior to a date to be set by the Director (or prior to restarting).

(2) Display of Synthetic Minor Operating Permit. A person who has been granted a Synthetic Minor Operating Permit for any article, machine, equipment, or other contrivance shall keep such permit under file or on display at all times at the site where the article, machine, equipment, or other contrivance is located and will make such a permit readily available for inspection by any and all persons who may request to see it.

(3) The Director shall have the authority to decide cases where an article, machine, equipment, or other contrivance is not clearly subject to nor exempt from the application of this Rule. In addition, the Director may rule that a particular article, machine, equipment, or other contrivance is subject to the application of this Rule even though it is exempt from the system according to Paragraph 335-3-15-.03(1) and Paragraph 335-3-15-.02(7) of this Rule. The operator or builder of such an article, machine, equipment, or other contrivance may appeal the Director's classification to the Commission, which shall overrule the Director only if it is shown that he acted arbitrarily and contrary to the purposes of the Act.

(4) The Department may issue a Synthetic Minor Operating Permit subject to conditions which will bring the operation of any article, machine, equipment, or other contrivance within the standards of Subparagraph 335-3-15-.02(8)(a) of this Rule in which case the conditions shall be specified in writing. Commencing construction or operation under such a Synthetic Minor Operating Permit shall be deemed acceptance of all the conditions specified. The Department shall issue a Synthetic Minor Operating Permit with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment, or other contrivance can operate within the standards of Subparagraph 335-3-15-.02(8)(a) of this Rule under the revised conditions.



(5) Provision of Sampling and Testing Facilities. A person operating or using any article, machine, equipment or other contrivance for which these rules and regulations require a permit shall provide and maintain such sampling and testing facilities as specified in the Synthetic Minor Operating Permit.

(6) Transfer. A Synthetic Minor Operating Permit shall not be transferable whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.

(7) Delegation of Synthetic Minor Operating Permit requirements to Local Air Pollution Control Programs.

(a) Local air pollution control programs may receive delegation of authority from the Director to administer the requirements of Chapter 335-3-15 within their jurisdiction provided the local air pollution control program:

1. adopts regulations which will insure that applicants are required to satisfy the same requirements contained in the Department's regulations; and

2. adopts regulations which will require that the Department be provided with an opportunity to review the permit application, the analysis of the permit, and proposed permit conditions at least 10 days prior to issuance of a Synthetic Minor Operating Permit.

(b) If the Director of the Department determines that local program procedures for implementing all the portions of Chapter 335-3-15 are inadequate, or are not being effectively carried out, any authority delegated to the local programs to administer Chapter 335-3-15 may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the local air pollution control program.

(c) The Department reserves the authority contained in Subparagraph 335-3-15-.02(8)(h), to revoke any Synthetic Minor Operating Permit issued pursuant to this chapter.

(d) Any Synthetic Minor Operating Permit issued by a local air pollution control program, including all conditions contained therein, is enforceable by the Department.

(8) General Standards for Granting Synthetic Minor Operating Permits.

(a) The Department shall deny a Synthetic Minor Operating Permit if the applicant does not show that every

article, machine, equipment, or other contrivance, the use of which may cause the issuance of air contaminants, is so designed, controlled, or equipped with such air pollution control equipment, that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of this Administrative Code.

(b) The Department shall deny a Synthetic Minor Operating Permit if the applicant does not present, in writing, a plan whereby the emission of air contaminants by every article, machine, equipment, or other contrivance described in the permit application, will be reduced during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency in accordance with the provisions of Chapter 335-3-2, where such a plan is required.

(c) Before a Synthetic Minor Operating Permit is granted, the Director may require the applicant to provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or degree of air contaminants discharged into the atmosphere from the article, machine, equipment, or other contrivance described in the Synthetic Minor Operating Permit. In the event of such a requirement, the Department shall notify the applicant in writing of the required size, number, and location of the sampling platform; the access to the sampling platform; and the utilities for operating and sampling and testing equipment. The Department may also require the applicant to install, use, and maintain such monitoring equipment or methods; sample such emissions in accordance with such methods, at such locations, intervals, and procedures as may be specified; and provide such information as the Department may require.

(d) Before acting on an application for a Synthetic Minor Operating Permit, the Department may require the applicant to furnish further information or further plans or specifications.

(e) If the Department finds that the article, machine, or other contrivance has been constructed not in accordance with the Synthetic Minor Operating Permit application, and if the changes noted are of a substantial nature in that the amount of air contaminants emitted by the article, machine, equipment, or other contrivance may be increased, or in that the effect is unknown, then it shall revoke the Synthetic Minor Operating Permit. The Department shall not accept any further application for a Synthetic Minor Operating Permit until the article, machine, equipment, or other contrivance has been reconstructed in accordance with said Synthetic Minor Operating Permit or until the applicant has proven to

the satisfaction of the Department that the change will not cause an increase in the emission of air contaminants.

(f) The Department shall deny a Synthetic Minor Operating Permit where it determines that the construction and operation of such Stationary Source will interfere with attaining or maintaining any primary or secondary standard established by Subparagraph 335-3-1-.04(1). A new Stationary Source or modification will be considered to interfere with attaining or maintaining a standard when such Stationary Source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the National Primary and Secondary Ambient Air Quality Standards, as defined in ADEM Admin. Code R. 335-3-1-.03:

POLLUTANT                      AVERAGING TIME

	Annual	24 hrs	8 hrs	3 hrs	1 hr
SO <sub>2</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>		25 µg/m <sup>3</sup>	
PM <sub>10</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>			
NO <sub>2</sub>	1.0 µg/m <sup>3</sup>				
CO			0.5 mg/m <sup>3</sup>		2 mg/m <sup>3</sup>

(g) A determination may be made by the Director to deny a permit application if the applicant operates other permitted facilities or Stationary Sources within the state which are in substantial noncompliance as determined by the Director, until such noncompliance is corrected or if the Director determines that a permit that results in compliance with applicable air pollution control standards could not be issued, or if issued, could not be complied with.

(h) Revocation of Synthetic Minor Operating Permits. Any Synthetic Minor Operating Permit granted by the Department may be revoked for any of the following causes:

1. failure to comply with any conditions of the permit;
2. failure to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods; and sample such emissions in accordance with such methods at such locations, intervals and procedures as the Department may prescribe in accordance with Subparagraph 335-3-1-.04(2);

3. failure to comply with any provisions of any Departmental administrative order issued concerning the permitted Stationary Source or facility.

4. failure to allow employees of the Department upon proper identification to:

- (i) enter any premises where any article, machine, equipment, or other contrivance described in Subparagraph 335-3-15-.03(1) is located or in which any records are required to be kept under provisions of the permit and/or this Administrative Code;
- (ii) have access to and copy any records required to be kept under provisions of the permit and/or this Administrative Code;
- (iii) inspect any monitoring equipment or practices being maintained pursuant to the permit and/or rules and regulations; and
- (iv) have access to and sample any discharge of air contaminants resulting directly or indirectly from the operation of any article, machine, equipment, or other contrivance described in Subparagraph 335-3-15-.03(1).

5. failure to comply with the Department's Administrative Codes.

6. for any other cause, after a hearing which establishes, in the judgment of the Department, that continuance of the permit is not consistent with the purpose of this Act or regulations adopted pursuant thereto.

(9) Stack Heights.

(a) Definitions. For purposes of this Subparagraph, the following terms will have the meanings ascribed in this Paragraph.

1. "Emission limitation" and "emission standard" mean a requirement, established by ADEM or the EPA Administrator, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

2. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

3. "A stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

4. "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(i) Using that portion of a stack which exceeds good engineering practice stack height;

(ii) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(iii) Increasing final exhaust gas plume rise by manipulating source-process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

(iv) The preceding sentence does not include:

(I) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(II) The merging of exhaust gas streams where:

A. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;

B. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

C. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the

merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Director shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Director shall deny credit for the effects of such merging in calculating the allowable emissions for the source:

(III) Smoke management in agricultural or silvicultural prescribed burning programs;

(IV) Episodic restrictions on residential wood burning and open burning; or

(V) Techniques under Subparagraph 335-3-15-.02(9)(a)4.(iii) which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

5. "Good engineering practice" (GEP) stack height means the greater of:

(i) 65 meters, measured from the ground-level elevation at the base of the stack:

(ii)(I) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required under 40 CFR 51 and 52, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation:

$$H_g = 2.5H.$$

(II) For all other stacks,

$$H_g = H + 1.5 L.$$

where

$H_g$  = good engineering practice stack height measured from the ground-level elevation at the base of the stack.

$H$  = height of nearby structure(s) measured from the ground-level elevation at the base of the stack.

$L$  = lesser dimension, height or projected width of nearby structure(s).

provided that the Director may require the use of a field study or fluid model to verify GEP stack height for the source; or

(iii) The height demonstrated by a fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

6. "Nearby" as used in Subparagraph 335-3-15-.02(9)(a)5. of this Paragraph is defined for a specific structure or terrain feature and

(i) for purposes of applying the formulas provided in Subparagraph 335-3-15-.02(9)(a)5.(ii) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile), and

(ii) for conducting demonstrations under Subparagraph 335-3-15-.02(9)(a)5.(iii) means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height ( $h_t$ ) of the feature, not to exceed 2 miles if such feature achieves a height ( $h_t$ ) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in Subparagraph 335-3-15-.02(9)(a)5.(ii)(II) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

7. "Excessive concentration" is defined for the purpose of determining GEP stack height under Subparagraph 335-3-15-.02(9)(a)(5)(iii) and means:

(i) for sources seeking credit for stack height exceeding that established under Subparagraph 335-3-15-.02(9)(a)5.(ii), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than a NAAQS. For sources subject to the PSD program (Rule 335-3-14-.04), and excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a

prevention of significant deterioration increment. The allowable emissions rate to be used in making demonstrations under this Rule shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator:

(ii) for sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under Subparagraph 335-3-15-.02(9)(a)5.(ii), either:

(I) a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects as provided in Subparagraph 335-3-15-.02(9)(a)7.(i), except that the emission rate specified elsewhere in these regulations (or, in the absence of such a limit, the actual emission rate) shall be used, or

(II) the actual presence of a local nuisance caused by the existing stack, as determined by the Director; and

(iii) for sources seeking credit after January 12, 1979, for a stack height determined under Subparagraph 335-3-15-.02(9)(a)5.(ii) where the Director requires that use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Subparagraph 335-3-15-.02(9)(a)5.(ii), a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(b) Before acting on any Air Permit, the Director shall require that the degree of emission limitation required of any source for control of any air pollutants shall not be affected by so much of any source's stack height that exceeds GEP or by any other dispersion technique, except as provided in Paragraph 335-3-15-.02(9)(c).

(c) The provisions of Paragraph 335-3-15-.02(9)(b) shall not apply to stack heights in existence, or dispersion techniques implemented, prior to December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the Clean Air Act, which were constructed, or



reconstructed or for which major modifications, as defined pursuant to Subparagraphs 335-3-14-.03(2)(b)4. and 335-3-14-.03(2)(b)1., were carried out after December 31, 1970.

(d) If any existing source, after appropriate application of the preceding limitations and provisions, is found to exceed or potentially exceed a NAAQS or PSD increment, when operating within previously established emission limitations, the emissions limitations applicable to that source shall be modified so as to eliminate and prevent the exceedance.

(e) If any new source or source modification, after appropriate application of the preceding limitations and provisions, is predicted to exceed a NAAQS or PSD increment when evaluated under emission limitations consistent with other applicable rules and regulations, the emission limitations considered shall be deemed inadequate and different emission limits, based on air quality considerations, shall be made applicable.

(f) If any source provides a field study or fluid modeling demonstration proposing a GEP stack height greater than that allowed by Subparagraph 335-3-14-.03(3)(a)5.(ii), then the public will be notified of the availability of the study and provided the opportunity for a public hearing before any new or revised emission limitation or permit is approved.

(g) The actual stack height used or proposed by a source shall not be restricted in any manner by requirements of this Section.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-15-.03 Applicability. The provisions of this Chapter shall apply only to Potential Major Sources, except for those Stationary Sources which are applying for, will apply for, or have obtained Operating Permits.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-15-.04 Synthetic Minor Operating Permit Requirements.

(1) General Provisions.

(a) The Synthetic Minor Operating Permit shall include specific conditions that restrict the facility's potential to emit and are federally enforceable.

(b) Any Stationary Source requesting a Synthetic Minor Operating Permit must undergo the public participation procedures prescribed in ADEM Admin. Code R. 335-3-15-.05.

(c) A Potential Major Source that does not obtain a Synthetic Minor Operating Permit shall apply for an Operating Permit.

(d) The Department shall act, within a reasonable time, on an application for a Synthetic Minor Operating Permit and shall notify the applicant in writing of its approval, conditional approval, or denial.

(e) In the event of a denial of a Synthetic Minor Operating Permit, the Department shall notify the applicant in writing of the reason therefor. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgment of the persons served or affidavit of the person making the service. The Department shall not accept a further application unless the applicant has complied with the objections specified by the Department as its reasons for denial of Synthetic Minor Operating Permit.

(f) The facility shall obtain a Synthetic Minor Operating Permit prior to beginning operation of the new or modified Stationary Source and shall notify the Department at least ten (10) days prior to beginning such operation.

(2) Existing Potential Major Sources.

(a) Any facility that would request a Synthetic Minor Operating Permit shall apply to the Department within one year after approval by EPA of the Operating Permit regulations in Chapter 16.

(b) Any facility possessing an Operating Permit or whose potential emissions require it to obtain an Operating Permit may, at any time, accept federally enforceable permit restrictions which would allow it to obtain a Synthetic Minor Operating Permit.

(3) New Potential Major Sources .

(a) Any new Potential Major Source which commences construction after November 15, 1995, may apply to the Department for a Synthetic Minor Operating Permit. This application shall be accurately completed and submitted to the Department prior to such construction.

(b) A Synthetic Minor Operating Permit for a new Potential Major Source shall expire and the application shall be canceled two years from the date of issuance of the Synthetic Minor Operating Permit if construction has not begun.

#### 4) Modifications to Synthetic Minor Sources

(a) Any Stationary Source subject to the regulations in this Chapter that is modified so that it becomes a major source as defined in ADEM Admin. Code R. 335-3-16-.01(15) shall apply for an Operating Permit within twelve (12) months of beginning operation.

(b) Any modification which would require a change to existing permit conditions that restrict the facility's potential to emit or require new conditions that restrict the facility's potential to emit, as required in Subparagraph 335-3-15-.04(1)(a) of this Rule, must undergo the public participation procedures prescribed in ADEM Admin. Code R. 335-3-15-.05.

#### (5) Exceptions to Violations of Emission Limits.

(a) The Director may, in the Synthetic Minor Operating Permit, exempt on a case by case basis any exceedances of emission limits or permit conditions which cannot reasonably be avoided (i.e., during periods of start-up and shut-down of facilities).

(b) The Director may exempt on a case by case basis exceedances of emission limits and permit conditions which cannot reasonably be avoided as a result of an "emergency" situation.

1. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the facility, including acts of God. These are situations that require immediate corrective action (s) to restore normal operation, and that cause the facility to exceed a technology based emission limitation set by the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include exceedances of the permit emission limitations caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

2. Exceedances of emissions limitations during emergencies at a facility may be exempted as being violations provided that:

(i) the permittee identifies the cause (s) of the emergency;

- (ii) the permitted facility was being properly operated until such a time as the emergency occurred;
- (iii) during the period of which the emergency occurred, the permittee took all reasonable steps to minimize levels of emissions that exceeded the standards, or other requirements of the permit; and
- (iv) the permittee submitted notice of the emergency to the Department within two (2) working days of the time when the emissions limitations were exceeded as a result of the emergency.

3. The Director shall be the sole determiner of whether an emergency has occurred.

4. This provision is in addition to any emergency or upset provision contained in any applicable requirement of the permit or the regulations.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-14-.05 Public Participation.

(1)(a) The provisions of this Rule apply only to potential major sources as specified in ADEM Admin. Code R. 335-3-15-.04(1)(b) and 335-3-15-.04(4)(b).

Notice shall be given by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice and also to persons on a mailing list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list;

(b) The notice shall identify the affected facility; the name and address of the permittee; the address of the Department; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, except for information entitled to be kept confidential, and all other materials available to the Department that are relevant to the permit decision; a brief description of the comment procedures required by this Rule; and the time and place of

any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

(c) The Department shall provide at least 15 days for public comment; and

(d) The Department shall keep a record of the commenters and also of the issues raised during the public participation process.

(2) Any new Stationary Source which is required to undergo a public comment period shall not initiate construction until all public participation procedures have been completed.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

## Air Division

Chapter 335-3-16  
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335-3-16-.01 Definitions. For the purposes of this chapter only, the following words and phrases, unless a different meaning is plainly required by the content, shall have the following meanings

(a) "Act" means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.

(b) "Affected source" means a source that includes one or more units subject to emission reduction requirements or limitations in Title IV of the Act.

(c) "Affected States" are all States:

1. Whose air quality may be affected and that are contiguous to the State in which permit modification or permit renewal is being proposed; or

2. That are within 50 miles of the permitted source.

(d) "Affected Unit" means any unit subject to emission reduction requirements or limitations under title IV of the Act.

(e) "Applicable Requirement" means all of the following as they apply to emissions units (including

requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

1. Any standard or other requirement provided for in Alabama's State Implementation Plan approved or promulgated by EPA through rulemaking in Part 51 of Title 40 in the Code of Federal Regulations that implements the relevant requirements of the Act, including any revisions to that plan promulgated in Subpart B of Part 52 of Title 40 in the Code of Federal Regulations;
2. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I, including parts C or D, of the Act; (Air Pollution Prevention and Control, Prevention of Significant Determination and Plan Requirement for nonattainment areas);
3. Any standard or other requirement in ADEM Admin. Code 335-3-10 (NSPS); including section 111(d) of the Act;
4. Any standard or other requirement ADEM Admin. Code 335-3-11 (NESHAPS), including any requirement concerning accident prevention under section 112(r)(7) of the Act;
5. Any standard or other requirement of the acid rain program under title IV (Acid Deposition Control) of the Act or the regulations promulgated thereunder;
6. Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;
7. Any standard or other requirement governing solid waste incineration, under section 129 of the Act;
8. Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;
9. Any standard or other requirement for tank vessels under section 183(f) of the Act;
10. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone (title VI of the Act, Stratospheric Ozone Protection) unless the Administrator has determined that such requirements need not be contained in a title V permit; and
11. Any national ambient air quality standard as defined in ADEM Admin. Code R. 335-3-1-.03 or increment as defined in ADEM Admin. Code R. 335-3-14-.04 (3) or visibility requirement in ADEM Admin. Code R. 335-3-14-.04

(15), but only as it would apply to temporary sources permitted pursuant to ADEM Admin. Code R. 335-3-16-.09.

(f) "the Department" means the Alabama Department of Environmental Management.

(g) "Designated Representative" means a responsible person or official authorized by the owner or operator of an Affected Unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to an Affected Unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Affected Unit.

(h) "Draft Permit" means the version of a permit for which the Department offers public participation under ADEM Admin. Code R. 335-3-16-.14(4) or affected State review under ADEM Admin. Code R. 335-3-16-.14(2) of this chapter.

(i) "Emissions Allowable under the Permit" means a federally enforceable permit term or condition determined at issuance of the permit to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

(j) "Emissions Unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. This term is not meant to alter or affect the definition of the term "unit" for purposes of title IV (Acid Deposition Control) of the Act.

(k) "The EPA" or "the Administrator" means the Administrator of the EPA or his/her designee.

(l) "Final Permit" means the version of a permit issued by the Department that has completed all review procedures required by ADEM Admin. Code R. 335-3-16-.12 and ADEM Admin. Code R. 335-3-16-.14 of this chapter.

(m) "Fugitive Emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(n) "General Permit" means a permit that meets the requirements of ADEM Admin. Code R. 335-3-16-.08.

(o) "Insignificant Activity" generally means any air emissions or air emissions unit at a plant that has the potential to emit less than 5 tons per year of any criteria



pollutant or less than 1000 pounds per year of any pollutant listed in Appendix G of ADEM Admin. Code R. 335-3. The Director may determine that certain types or classes of units may be considered insignificant at higher emission levels, or that, due to the nature of the pollutant(s) emitted, a unit may be considered significant at a lower emission rate. The Director shall maintain a list of air emissions or air emission units which are considered to be insignificant without a determination of emission levels by the permittee.

(p) "Interim Approval" means approval given by the Administrator to the Department that extends the implementation of these regulations by up to two years.

(q) "Major Source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in subparagraphs 1., 2., or 3. of this definition as follows (for the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two digit code) as described in the Standard Industrial Classification Manual, 1987):

1. A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

2. A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes this chapter, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers):
- (ii) Kraft pulp mills:
- (iii) Portland cement plants:
- (iv) Primary zinc smelters:
- (v) Iron and steel mills:
- (vi) Primary aluminum ore reduction plants:
- (vii) Primary copper smelters:
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day:
- (ix) Hydrofluoric, sulfuric, or nitric acid plants:
- (x) Petroleum refineries:
- (xi) Lime plants:
- (xii) Phosphate rock processing plants:
- (xiii) Coke oven batteries:
- (xiv) Sulfur recovery plants:
- (xv) Carbon black plants (furnace process):
- (xvi) Primary lead smelters:
- (xvii) Fuel conversion plants:
- (xviii) Sintering plants:
- (xix) Secondary metal production plants:
- (xx) Chemical process plants:

- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) All other stationary source categories regulated by a standard promulgated under ADEM Admin. Code 335-3-10 and 335-3-11 of this administrative code, but only with respect to those air pollutants that have been regulated for that category;

(r) "Operating Permit" or "Permit" (unless the context suggests otherwise) means any permit or group of permits that is issued, renewed, amended, or revised pursuant to this chapter.

(s) "Permit Modification" means a revision to a permit that meets the requirements of ADEM Admin. Code R. 335-3-16-.13(3) and (4).

(t) "Permit Revision" means any permit modification or administrative permit amendment.

(u) "Potential to Emit" means the maximum capacity of a stationary source's potential to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source's potential to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in title IV (Acid Deposition Control) of the Act or the regulations promulgated thereunder.

(v) "Proposed Permit" means the version of a permit

that the Department proposes to issue and forwards to the Administrator for review in compliance with ADEM Admin. Code R. 335-3-16-.14(2).

(w) "Regulated Air Pollutant" means the following:

1. Nitrogen oxides or any volatile organic compounds;
2. Any pollutant for which a national ambient air quality standard has been promulgated;

3. Any pollutant that is subject to any standard promulgated under section 111 of the Act;

4. Any Class I or II substance subject to a standard promulgated under or established by title VI (Stratospheric Ozone Protection) of the Act; or

5. Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act, including sections 112(g), (j), and (r) of the Act, including the following:

- (i) Any pollutant subject to requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and

- (ii) Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to section 112(g)(2) requirement.

(x) "Renewal" means the process by which a permit is reissued at the end of its term.

(y) "Responsible Official" means one of the following:

1. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

- (i) The facilities employ more than 250 persons or

have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the Department;

2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

3. For a municipality, state, federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this definition and this chapter, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

4. For affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under title IV (Acid Deposition Control) of the Act or the regulations promulgated thereunder are concerned; and

(ii) The designated representative for any other purposes under this chapter.

(z) "Section 502(b)(10) Changes" are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), record keeping, reporting, or compliance certification requirements.

(aa) "Stationary Source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

(bb) "Trivial Activity" means any air emissions from a unit that is considered inconsequential, as determined by the Director. The Director shall maintain a list of air emission units that have been determined to be trivial activity.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

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### 335-3-16-.02 General Provisions.

(1) Any Major Source operating without an Air Permit, an Operating Permit or a Synthetic Minor Operating Permit may continue to operate (or may restart) only if its owner or operator obtains an Operating Permit or an Operating Permit prior to a date to be set by the Director (or prior to restarting).

(2) Display of Operating Permit. A person who has been granted an Operating Permit for any article, machine, equipment, or other contrivance shall keep such permit under file or on display at all times at the site where the article, machine, equipment, or other contrivance is located and will make such a permit readily available for inspection by any and all persons who may request to see it.

(3) The Director shall have the authority to decide cases where an article, machine, equipment, or other contrivance is not clearly subject to nor exempt from the application of this rule. The operator or builder of such an article, machine, equipment, or other contrivance may appeal the Director's classification to the Commission, which shall overrule the Director only if it is shown that he acted arbitrarily and contrary to the purposes of the Act.

(4) The Director may issue an Operating Permit subject to conditions which will bring the operation of any article, machine, equipment, or other contrivance within the standards of Subparagraph 335-3-16-.02(8)(a) of this rule in which case the conditions shall be specified in writing. Commencing construction or operation under such an Operating Permit shall be deemed acceptance of all the conditions specified. The Director shall issue an Operating Permit with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment, or other contrivance can operate within the standards of Subparagraph 335-3-16-.02(8)(a) of this rule under the revised conditions.

(5) Provision of Sampling and Testing Facilities. A person operating or using any article, machine, equipment or other contrivance for which this administrative code requires a permit shall provide and maintain such sampling and testing facilities as specified in the Operating Permit.

(6) Transfer. An Operating Permit shall not be transferable whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another, except as provided in ADEM Admin. Code R. 335-3-16-.13(a)(5).

(7) Delegation of Operating Permit requirements to Local Air Pollution Control Programs.

(a) Local air pollution control programs may receive delegation of authority from the Director to administer the requirements of ADEM Admin. Code 335-3-16 within their jurisdiction provided the local air pollution control program:

1. adopts regulations insuring applicants are required to satisfy the same requirements as contained in this chapter of the Department's administrative code; and

2. adopts regulations which require the Director to be provided with an opportunity to review the permit application, the analysis of the permit, and proposed permit conditions at least 30 days prior to issuance of an Operating Permit.

(b) If the Director of the Department determines that local program procedures for implementing all the portions of ADEM Admin. Code 335-3-16 are inadequate, or are not being effectively carried out, any authority delegated to the local programs to administer ADEM Admin. Code 335-3-16 may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the local air pollution control program.

(c) The Director reserves the authority contained in ADEM Admin. Code R. 335-3-16-.02(8)(h), to revoke any Operating Permit issued pursuant to this Section.

(d) Any Operating Permit issued by a local air pollution control program, including all conditions contained therein, is enforceable by the Department.

(8) General Standards for Granting Operating Permits.

(a) The Director shall deny an Operating Permit if the applicant does not show that every article, machine,

equipment, or other contrivance, the use of which may cause the issuance of air contaminants, is so designed, controlled, or equipped with such air pollution control equipment, that it is expected to operate without emitting or without causing to be emitted air contaminants in violation of this administrative code.

(b) The Director shall deny an Operating Permit if the applicant does not present, in writing, a plan whereby the emission of air contaminants by every article, machine, equipment, or other contrivance described in the permit application, will be reduced during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency in accordance with the provisions of ADEM Admin. Code 335-3-2, where such plan is required.

(c) Before an Operating Permit is granted, the Director may require the applicant to provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or degree of air contaminants discharged into the atmosphere from the article, machine, equipment, or other contrivance described in the Operating Permit. In the event of such a requirement, the Director shall notify the applicant in writing of the required size, number, and location of the sampling platform; the access to the sampling platform; and the utilities for operating and sampling and testing equipment. The Director may also require the applicant to install, use, and maintain such monitoring equipment or methods; sample such emissions in accordance with such methods, at such locations, intervals, and procedures as may be specified; and provide such information as the Director may require.

(d) Before acting on an application for an Operating Permit, the Director may require the applicant to furnish further information or further plans or specifications.

(e) If the Director finds that the article, machine, or other contrivance has been constructed not in accordance with the Operating Permit application, and if the changes noted are of a substantial nature in that the amount of air contaminants emitted by the article, machine, equipment, or other contrivance may be increased, or in that the effect is unknown, then he shall revoke the Operating Permit. The Director shall not accept any further application for an Operating Permit until the article, machine, equipment, or other contrivance has been reconstructed in accordance with said Operating Permit or until the applicant has proven to the satisfaction of the Director that the change will not cause an increase in the emission of air contaminants.



(f)1. The Director shall deny an Operating Permit where he determines that the construction and operation of such Stationary Source will interfere with attaining or maintaining any primary or secondary standard established by ADEM Admin. Code R. 335-3-1-.04(1). A new Stationary Source or modification will be considered to interfere with attaining or maintaining a standard when such Stationary Source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the NAAOS:

POLLUTANT	AVERAGING TIME				
	Annual	24 hrs	8 hrs	3 hrs	1 hr
SO <sub>2</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>		25 µg/m <sup>3</sup>	
PM <sub>10</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>			
NO <sub>2</sub>	1.0 µg/m <sup>3</sup>				
CO			0.5 mg/m <sup>3</sup>		2 mg/m <sup>3</sup>

2. A determination may be made by the Director to deny a permit application if the applicant operates other permitted facilities or Stationary Sources within the state which are in substantial noncompliance as determined by the Director, until such noncompliance is corrected or if the Director determines that a permit that results in compliance with applicable air pollution control standards could not be issued, or if issued, could not be complied with.

(9) Revocation of Operating Permits. Any Operating Permit granted by the Director may be revoked for any of the following causes:

(a) failure to comply with any conditions of the permit:

(b) failure to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods; and sample such emissions in accordance with such methods at such locations, intervals and procedures as the Director may prescribe in accordance with ADEM Admin. Code R. 335-3-1-.04(2):

(c) failure to comply with any provisions of a Departmental administrative order issued concerning the permitted stationary source or facility.

(d) failure to allow employees of the Department upon proper identification, to:

1. enter any premises where any article, machine, equipment, or other contrivance described in ADEM Admin. Code R. 335-3-16-.03(1) is located or in which any records are required to be kept under provisions of the permit and/or this administrative code;

2. have access to and copy any records required to be kept under provisions of the permit and/or this administrative code;

3. to inspect any monitoring equipment or practices being maintained pursuant to the permit and/or this administrative code; and

4. have access to and sample any discharge of air contaminants resulting directly or indirectly from the operation of any article, machine, equipment, or other contrivance described in ADEM Admin. Code R. 335-3-16-.03(1).

(e) failure to comply with this or any other administrative code of the Department.

(f) for any other cause, after a hearing which establishes, in the judgment of the Department, that continuance of the permit is not consistent with the purpose of the Act or this administrative code.

(10) Stack Heights.

(a) Definitions. For purposes of this Section, the following terms will have the meanings ascribed in this Paragraph.

1. "Emission limitation" and "emission standard" mean a requirement established by ADEM or the EPA Administrator, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

2. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a

pipe or duct but not including flares.

3. "A stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

4. "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(i) Using that portion of a stack which exceeds good engineering practice stack height;

(ii) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(iii) Increasing final exhaust gas plume rise by manipulating source-process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

(iv) The preceding sentence does not include:

(I) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(II) The merging of exhaust gas streams where:

A. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;

B. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

C. Before July 8, 1985, such merging was part of a change in operation at the facility that included the

installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Director shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Director shall deny credit for the effects of such merging in calculating the allowable emissions for the source:

(III) Smoke management in agricultural or silvicultural prescribed burning programs:

(IV) Episodic restrictions on residential wood burning and open burning: or

(V) Techniques under Subdivision 335-3-16-.02(10)(a)4.(iii) which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

5. "Good engineering practice" (GEP) stack height means the greater of:

(i) 65 meters, measured from the ground-level elevation at the base of the stack:

(ii)(I) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required under 40 CFR 51 and 52, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation:

$$H_g = 2.5H$$

(II) For all other stacks,

$$H_g = H \pm 1.5 H$$

where

$H_g$  = good engineering practice stack height measured from the ground-level elevation at the base of the stack.

$H$  = height of nearby structure(s) measured from the ground-level elevation at the base of the stack.

L = lesser dimension, height or projected width of nearby structure(s),

provided that the Director may require the use of a field study or fluid model to verify GEP stack height for the source; or

(iii) The height demonstrated by a fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

6. "Nearby" as used in Subparagraph 335-3-16-.02(10)(a)5. of this Paragraph is defined for a specific structure or terrain feature and

(i) for purposes of applying the formulas provided in Subdivision 335-3-16-.02(10)(a)5. (ii) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile), and

(iii) for conducting demonstrations under Subdivision 335-3-16-.02(10)(a)5. (iii) means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height ( $h_t$ ) of the feature, not to exceed 2 miles if such feature achieves a height ( $h_t$ ) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in Subdivision 335-3-16-.02(10)(a)5. (ii) (II) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

7. "Excessive concentration" is defined for the purpose of determining GEP stack height under Subdivision 335-3-16-.02(10)(a)(5)(iii) and means:

(i) for sources seeking credit for stack height exceeding that established under Subdivision 335-3-16-.02(10)(a)5. (ii), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions

from all sources that is greater than a NAAOS. For sources subject to the PSD program (ADEM Admin. Code R. 335-3-14-.04), and excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emissions rate to be used in making demonstrations under this rule shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator:

(ii) for sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under Subdivision 335-3-16-.02(10)(a)5.(ii), either:

(I) a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects as provided in Subdivision 335-3-16-.02(10)(a)7.(i), except that the emission rate specified elsewhere in these regulations (or, in the absence of such a limit, the actual emission rate) shall be used, or

(II) the actual presence of a local nuisance caused by the existing stack, as determined by the Director; and

(iii) for sources seeking credit after January 12, 1979, for a stack height determined under Subdivision 335-3-16-.02(10)(a)5.(ii) where the Director requires that use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Subdivision 335-3-16-.02(10)(a)5.(ii), a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(b) Before acting on any Air Permit, the Director shall require that the degree of emission limitation required of any source for control of any air pollutants

shall not be affected by so much of any source's stack height that exceeds GEP or by any other dispersion technique, except as provided in Paragraph 335-3-16-.02(10)(c).

(c) The provisions of Paragraph 335-3-16-.02(10)(b) shall not apply to stack heights in existence, or dispersion techniques implemented, prior to December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the Clean Air Act, which were constructed, or reconstructed or for which major modifications, as defined pursuant to Subparagraphs 335-3-14-.03(2)(b)4. and 335-3-14-.03(2)(b)1., were carried out after December 31, 1970.

(d) If any existing source, after appropriate application of the preceding limitations and provisions, is found to exceed or potentially exceed a NAAQS or PSD increment, when operating within previously established emission limitations, the emissions limitations applicable to that source shall be modified so as to eliminate and prevent the exceedance.

(e) If any new source or source modification, after appropriate application of the preceding limitations and provisions, is predicted to exceed a NAAQS or PSD increment when evaluated under emission limitations consistent with other applicable rules and regulations, the emission limitations considered shall be deemed inadequate and different emission limits, based on air quality considerations, shall be made applicable.

(f) If any source provides a field study or fluid modeling demonstration proposing a GEP stack height greater than that allowed by Subdivision 335-3-16-.02(10)(a)5.(ii), then the public will be notified of the availability of the study and provided the opportunity for a public hearing before any new or revised emission limitation or permit is approved.

(g) The actual stack height used or proposed by a source shall not be restricted in any manner by requirements of this Section.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-16-.03    Applicability

(1) Except as exempted under item (2) below and elsewhere herein, the following sources are subject to the permitting requirements under this administrative code:

(a) Any major source as defined under ADEM Admin. Code R. 335-3-16-.01;

(b) Any source subject to a standard, limitation, or other requirement under ADEM Admin. Code 335-3-10 or 335-3-11 of this administrative code;

(c) Any affected source as defined under ADEM Admin. Code R. 335-3-16-.01;

(2) The following sources are exempt from the requirements of this chapter:

(a) Non-major sources subject to ADEM Admin. Code 335-3-10 or 335-3-11 of this administrative code prior to July 21, 1992;

(b) Non-major sources subject to ADEM Admin. Code 335-3-10 or 335-3-11 of this administrative code which have an applicability date after July 21, 1992 that have been exempted by the Administrator from the requirements of 40 CFR 70;

(c) Wood heaters subject to ADEM Admin. Code 335-3-10 of this administrative code and asbestos demolitions and renovation sources subject to ADEM Admin. Code 335-3-11 of this administrative code.

Author: Richard L. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-16-.04    Permit Application Requirements

(1) Upon becoming subject to these regulations, a source must submit an application, as described in this rule within 12 months. The Director may require some sources to submit their applications earlier than 12 months after the rules in this chapter become applicable if it is determined that earlier submittal is necessary to satisfy the requirements in ADEM Admin. Code R. 335-3-16-.12(1) of this administrative code. The Department shall notify any emission source that must submit early applications at least



one year in advance of the date the submittal is due.

(2) Sources subject to section 112 (g) of the Act or subject to preconstruction review under Title 1 of the Act must apply for a permit under this chapter within 12 months after commencing operation, except, when an existing permit issued under this chapter prohibits construction or a change in operation, a permit revision must be obtained before commencing operation.

(3) Renewal. An application for renewal shall be submitted at least six (6) months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit.

(4) Applications for initial phase II acid rain permits shall be submitted by January 1, 1996 for sulfur dioxide (SO<sub>2</sub>) and by January 1, 1998 for nitrogen oxides (NO<sub>x</sub>).

(5) Complete application. Unless the Department notifies the permit applicant in writing that the application is not complete, the application is considered complete 60 days after receipt by the Department. If, while processing the application, the Department determines that more information is needed to evaluate the application, the applicant must submit such information by a reasonable deadline(s) as to be set on written request(s) from the Department.

(6) A source may operate without a permit under this chapter between the date the application has been deemed complete and the date the permit is issued, provided that the applicant submits any requested additional material by the deadline(s) specified by the Department.

(7) Duty to supplement or correct an application. A source must submit additional information to the Department to supplement or correct an application promptly after becoming aware of the need for additional or corrected information. Also, a source must supply to the Department additional information concerning any new requirements which have become applicable after a complete application has been filed but before a draft permit is released.

(8) Standard application form and required information. The following information shall be included in an application by a source for a permit under this chapter:

(a) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number

and names of plant site manager/contact:

(b) A description of the source's processes and products (by four-digit Standard Industrial Classification Code), including any processes and products associated with each alternate scenario that is identified by the source and a list of insignificant sources and the basis for the determination(s):

(c) The following emissions-related information:

1. A list of all emissions of pollutants for which the source is considered to be major and a list of all emissions of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this rule. The source shall submit additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to determine the amount of any permit fees owed under the fee schedule approved pursuant to ADEM Admin. Code R. 335-1-7-.04:

2. Identification and description of all points of emissions described in subparagraph 335-3-16-.04(8)(c)1. of this rule in sufficient detail to establish the basis for fees and the applicability of the requirements of this chapter:

3. Emissions rates of all pollutants in tons per year (tpy) and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method, or alternative method approved by the Department's Director:

4. The following information to the extent it is needed to determine or regulate emissions: fuels to be used, rate of fuel use, raw materials that will be used in the production process, production rates, and operating schedules:

5. Identification and description of all air pollution control equipment and compliance monitoring devices or activities that will be used by the source:

6. Limitations that will be placed on the source's operation so as to affect emissions or any work practice standards that will be implemented, where applicable, for all regulated pollutants.

7. Other information that may be required to address

other applicable requirements (including , but not limited to, information relating to stack height limitations developed pursuant to section 123 of the Act).

8. Calculations on which the information in items 1. through 7. above are based.

9. Exemptions

(i) Insignificant activities shall be exempted from the provisions of this rule, except for the provision that the insignificant activity be listed in the permit application

(ii) Trivial activities shall be exempted from all the provisions of this rule.

(d) The following air pollution control requirements:

1. Citations and descriptions of all applicable statutory and administrative code requirements, and

2. A description of or reference to any applicable test methods for determining compliance with each applicable statutory or administrative code requirement.

(e) Other information that may be required by the Department to enforce and implement other requirements of this chapter;

(f) An explanation of all proposed exemptions from otherwise applicable requirements;

(g) Additional information determined by the Department to be necessary to define alternative operating scenarios that are identified by the source pursuant to ADEM Admin. Code R. 335-3-16-.05(13).

(h) A compliance plan for the source that contains the following:

1. A description of the compliance status of the source with respect to all applicable requirements and a compliance schedule.

2. A statement that the source will continue to comply with all regulatory requirements that it is now in compliance with;

3. A statement that the source will meet such requirements that will become effective on a timely basis, unless a more detailed schedule is expressly required by the

applicable requirement:

4. A narrative description of how the source will achieve compliance with requirements for which the source is not in compliance at the time of permit issuance with a compliance schedule for the source. Any schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. The compliance schedule shall be at least as stringent as any compliance schedule that is contained in any judicial consent decree or administrative order to which the source is subject. Any schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

5. A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.

6. The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(i) A compliance certification, including the following:

1. A certification of compliance with all applicable requirements by a responsible official consistent with paragraph ADEM Admin Code R. 335-3-16-.04(9) and section 114(a)(3) of the Act, as it relates to the enhanced monitoring requirements:

2. A statement of methods used for determining compliance, including a description of monitoring, record keeping, and reporting requirements and test methods:

3. A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by the underlying applicable requirement or by the Department; and

4. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(j) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans as required by regulations promulgated under title IV of the Act.

(9) Certification of truth, accuracy and completeness.

(a) Any application form, report, or compliance certification submitted pursuant to this chapter shall contain certification by a responsible official of truth, accuracy, and completeness, except as provided in Subparagraph 335-3-16-.04(9)(b). This certification and any other certification required under this chapter shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(b) Certification for completeness shall not be required for initial applications that will not be processed in the first year the regulations in this chapter are effective. A certification for completeness for such applications shall be required when the Department begins processing the application and requests additional information.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-16-.05 Permit Content. All permits required under this chapter shall include certain standard permit requirements. The permits shall contain the following:

(1) Applicable emissions limitations and standards and operational requirements and limitations necessary to assure compliance with all applicable requirements at the time of permit issuance. In addition, the permit shall include:

(a) A statement or reference to the origin and authority for each term or condition in the permit and any difference in form as compared to the applicable requirement under this chapter upon which the term or condition is based; and

(b) A statement to the effect that where an applicable requirement of this chapter is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the Department.

(2) Duration of Operating Permits

(a) The Department shall issue permits for a fixed period of five years, except as provided in subparagraph (b) below.

(b) Solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act shall have a fixed term not to exceed 12 years. However, said permits shall be reviewed every five years.

(c) Permits which are issued for new emission units before the units become operational shall be effective for five years after operation of the unit commences.

(3) Monitoring and record keeping requirements.

(a) Permits shall contain the following requirements with respect to monitoring:

1. All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act:

2. Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring (e.g. record keeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that is representative of the source's compliance with the permit, as reported pursuant to subparagraph (3)(c) of this rule. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. In certain instances record keeping provisions may be sufficient to meet the requirements of this subparagraph of this rule; and

3. As necessary, information concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(b) With respect to record keeping, the permit shall incorporate all requirements of this chapter and require, where appropriate, the following:

1. Records of required monitoring information of the source that include the following:

(i) The data, place (as defined in the permit), and time of all sampling or measurements;

- (ii) The date(s) analyses were performed;
- (iii) The company or entity that performed the analyses;
- (iv) The analytical techniques or methods used;
- (v) The results of all analyses; and
- (vi) The operating conditions that existed at the time of sampling or measurement;
- (vii) Retention of records of all required monitoring data and support information of the source for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit.

(c) Permits shall incorporate all reporting requirements of this chapter and require the following:

1. The source to submit reports to the Department of any required monitoring at least every 6 months. All instances of deviations from permit requirements must be clearly identified in said reports. All required reports must be certified by a responsible official consistent with ADEM Admin. Code 335-3-16-.04(9).

2. The source to report deviations from permit requirements within 48 hours of such deviations, including those attributable to upset conditions as defined in the permit, the probable cause of said deviations, and any corrective actions or preventive measures that were taken.

(4) Permits shall contain statements to the effect that emissions exceeding any allowances that the source lawfully holds under title IV of the Act or the regulations promulgated thereunder are prohibited. Furthermore, the following shall be applicable:

(a) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement;

(b) No limit shall be placed on the number of allowances held by the source. The source may not, however,

use allowances as a defense to noncompliance with any other applicable requirement:

(c) Any such allowance shall be accounted for according to the procedures established in regulations promulgated pursuant to title IV of the Act.

(5) Permits shall include a severability clause for the purpose of ensuring the continuation of a permit in the event a portion(s) of the permit is successfully challenged in a legal forum.

(6) Permits shall contain a provision that states that the source (permittee) must comply with all conditions of this administrative code: Noncompliance with a permit will constitute a violation of the Act and this administrative code and may result in an enforcement action: including but not limited to, permit termination, revocation and reissuance, or modification; or denial of a permit renewal application by the source.

(7) Permits shall contain a provision that states the source (permittee) shall not use as a defense in an enforcement action that maintaining compliance with conditions of the permit would have required halting or reducing the permitted activity.

(8) Permits shall contain a provision that states that the permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the source (permittee) for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance will not stay any permit condition.

(9) Permits shall contain a provision that states that no property rights of any sort, or any exclusive privilege are conveyed through the issuance of the permit.

(10) Permits shall contain a provision that states that the source (permittee) shall furnish to the Department, within a reasonable time, any information that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon receiving a specific request, the permittee shall also furnish to the Department copies of records required to be kept by the permit.

(11) Permits shall contain a provision that states that the source (permittee) must have paid all fees required by ADEM Admin. Code 335-1-7-.04, or the permit is not effective



(12) Permits shall state that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(13) The permit shall contain a provision that quantifies the terms and conditions for reasonably anticipated alternative operating scenarios that were identified by the source in its application and are acceptable to the Department. The alternative operating scenarios terms and conditions shall:

(a) Require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating:

(b) Ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this chapter.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-16-.06 Federally enforceable requirements.

All terms in a permit that are required to be part of a permit pursuant to the Act are federally enforceable by EPA, the Department and citizens in general. However, those provisions of a permit that are not required under the Act are considered to be state permit provisions and consequently, are not federally enforceable by EPA and citizens in general.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-16-.07 Compliance requirements. Permits shall contain the following elements with respect to compliance:

(1) Compliance certification, testing, monitoring, reporting, and record keeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports submitted by the source (permittee)) that is required in a permit shall

contain a certification by a responsible official that meets the requirements of ADEM Admin Code R. 335-3-16-.04(9).

(2) Inspection and entry requirements that mandate that the permittee shall allow the Department or an authorized representative, upon presentation of credentials and other documents that may be required by law, to conduct the following:

(a) Enter upon the permittee's premises where a source is located or emissions-related activity is conducted, or where records must be kept pursuant to the conditions of a permit;

(b) Review and/or copy, at reasonable times, any records that must be kept pursuant to the conditions of a permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required pursuant to a permit; and

(d) Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements.

(3) A schedule of compliance consistent with ADEM Admin Code R. 335-3-16-.04(8)(h).

(4) Progress reports consistent with an applicable schedule of compliance and ADEM Admin Code R. 335-3-16-.04(8)(h) to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the Department. Such progress reports shall contain the following:

(a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and/or dates when such activities, milestones or compliance were achieved; and

(b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

(a) The frequency of submissions of compliance

certifications, which shall be at least annually unless more frequent periods are specified according to the specific rule governing the source or required by the Department.

(b) A means for monitoring the compliance of the source with its emissions limitations, standards, and work practices in accordance with ADEM Admin Code R. 335-3-16-.05(3);

(c) A requirement that the compliance certification include the following:

1. The identification of each term or condition of the permit that is the basis of the certification;

2. The compliance status;

3. Whether compliance has been continuous or intermittent;

4. The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with ADEM Admin Code R. 335-3-16-.05(3); and

5. Such other facts as the Department may require to determine the compliance status of the source;

(d) A requirement that all compliance certifications be submitted to the Administrator as well as to the Department; and

(e) Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act.

(6) Such other provisions as the Department may require.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-16-.08 General Permits.

(1) The Department may issue a general permit to any source category if it concludes that the category is appropriate for permitting on a generic basis after notice and opportunity for public participation provided under ADEM Admin Code R. 335-3-16-.14(4). No general permit may be issued for affected sources under the acid rain program

unless otherwise provided in regulations promulgated under Title IV of the Act.

(2) A general permit may be issued for a source category based upon an application from a source within the source category or upon the Department's own initiative. The same procedures for issuance of a general permit are applicable as for any other permit issued under this chapter.

(3) A general permit may be issued for the following purposes:

(a) to establish terms and conditions to implement applicable requirements for a source category;

(b) to establish terms and conditions to implement applicable requirements for specified categories of changes to permitted sources;

(c) to establish terms and conditions for new requirements that apply to sources with existing permits; and

(d) to establish federally-enforceable caps on emissions from sources in a specified category.

(4) The Department may issue a general permit if it finds that:

(a) there are several permittees or permit applicants who have the same or substantially similar operations, emissions, activities, or facilities;

(b) the permittees or permit applicants emit the same types of regulated air pollutants;

(c) the operations, emissions, activities, or facilities are subject to the same or similar standards, limitations, and operating requirements; and

(d) the operations, emissions, activities, or facilities are subject to the same or similar monitoring requirements.

(5) A general permit issued under this rule shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, any source may submit a request to be covered under the permit.

(a) A request for coverage under a general permit shall identify the source and provide information sufficient

to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general permit.

(b) A final action approving a request for coverage under a general permit shall not require repeating the public participation procedures.

(6) A copy of the general permit, together with a list of sources approved for coverage under it, shall be kept on file for public review at the Department's office in Montgomery.

(7) If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source may apply for and receive coverage under the general permits for the operations, activities, and emissions that are so eligible. If the source is required under ADEM Admin Code R. 335-3-16-.04 to obtain a permit addressing the remainder of its operations, activities, and emissions, it may apply for and receive a permit that addresses specifically only those items not covered by general permits. In such a case, the source's permit shall identify all operations, activities, and emissions that are subject to general permits and incorporate those general permits by reference or use this for General Permits instead of (1) - (6) above

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-16-.09 Temporary sources.

(1) One permit for sources which move at least once during term of permit: A single permit may be issued authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

(a) Conditions that will assure compliance with all applicable requirements at all authorized locations;

(b) Requirements that the owner or operator notify the permitting authority at least ten days in advance of each change in location; and

(c) Conditions that assure compliance with all other provisions of this section.

(2) The Department shall be notified in writing at least 10 days in advance of a change in location of the source.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-16-.10 Permit Shield.

(1) Except as provided in this rule, the Department may expressly include in an Operating Permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

(a) Such applicable requirements are included and are specifically identified in the permit; or

(b) The Department, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

(2) An Operating Permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(3) Nothing in this rule or in any Operating Permit shall alter or affect the following:

(a) The provisions of section 303 of the Act (emergency orders), including the authority of the Administrator under that section;

(b) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

(c) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(d) The ability of EPA to obtain information from a source pursuant to section 114 of the Act.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-16-.11 Exceptions to Violations of Emissions Limits.

(1) The Director may, in the operating permit, exempt on a case-by-case basis exceedances of emission limits which cannot reasonably be avoided, such as during periods of start-up, shut-down or load change.

(2) Emergency provision

(a) An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(b) Exceedances of emission limits during emergencies (as defined above) at a facility may be exempted from being violations provided that:

1. The permittee can identify the cause(s) of the emergency;

2. At the time of the emergency, the permitted facility was being properly operated;

3. During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in its applicable permit; and

4. The permittee submitted notice of the emergency to the permitting authority within 2 working days of the time when emission limitations were exceeded due to the emergency.

5. The permittee immediately documented the emergency exceedance in an "Emergency Log", which shall be maintained for 5 years in a form suitable for inspection upon request by a representative of the Department.

(c) The Director shall determine whether an emergency has occurred.

(d) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-16-.12 Permit Issuance.

(1) Initial

(a) All major sources must be issued operating permits within 3 years of the date that EPA approves the Department's program.

(b) At least one-third of the permits for sources subject to this chapter must be issued each of the three years following EPA's approval of the Department's program.

(c) If the Department is granted interim approval, then the provisions of paragraphs (a) and (b) do not apply.

1. During each year of interim approval, at least 20% of the permits subject to this chapter must be issued. Thereafter, at least one-third of the remaining sources subject to this chapter must be issued each year.

2. If interim approval is granted, the emissions from the sources subject to this chapter that are permitted in the first three years of the program shall amount to 80% of the emissions from all sources subject to this chapter.

(d) Any application for a new source must be acted on within 18 months of receiving a complete application.

(2) Renewals

(a) Applications for permit renewal shall be subject to the same procedural requirements, including those for public participation, and affected State and EPA review, that apply to initial permit issuance under this chapter.

(b) A source's right to operate shall terminate upon the expiration of its permit unless a timely and complete renewal application has been submitted at least six months, but not more than 18 months, before the date of expiration or the Department has taken final action approving the



source's application for renewal by the expiration date.

(c) If a timely and complete application for a permit renewal is submitted, but the Department fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time.

335-3-16-.13 Permit Modifications or Amendments.

(1) Administrative modifications or amendments

(a) Some modifications to permits shall be considered, by their nature, administrative changes. An administrative permit amendment is a permit revision that:

1. Corrects typographical errors;
2. Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
3. Requires more frequent monitoring or reporting by the permittee;
4. Incorporates a general permit into an Operating Permit.
5. Allows for a change in ownership or operational control of a source where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee for purposes of regulatory responsibility has been submitted to the Department;
6. Incorporates into a permit issued under this chapter the requirements from preconstruction review permits authorized under this administrative code, provided that the process used meets procedural requirements substantially equivalent to the requirements of ADEM Admin. Code R. 335-3-16-.12 and 335-3-16-.14 of this chapter that would be applicable to the change if it were subject to review as a permit modification, and compliance requirements substantially equivalent to those contained in ADEM Admin. Code R. 335-3-16-.05 of this chapter; or
7. Incorporates any other type of change which the Department has determined as part of the approved permit program under this chapter to be similar to those in

subparagraphs 1-5 above.

(b) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under title IV of the Act.

(c) An administrative permit amendment may be made by the Department consistent with the following:

1. The Department shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

2. The Department shall submit a copy of the revised permit to the Administrator.

3. The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(2) Flexible Permit Changes (i.e., 502 (B) 10 changes): Changes which are not considered to be modifications under title I of the Act, that contravene an existing permit condition and do not exceed emissions allowable under the permit can be done without amending the permit if:

1. Written notification is given that describes the proposed change, the date of the change, any change in emissions, and any term or condition of the permit which is no longer valid due to the change; and

2. Notice is given to the Department and EPA at least 7 days before the change is made.

(3) Minor Permit Modification Procedures

(a) Criteria

1. Minor permit modification procedures may be used only for those permit modifications that:

(i) Do not violate any applicable requirement;

(ii) Do not involve significant changes to existing monitoring, reporting, or record keeping requirements in the permit;

(iii) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(iv) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

A. A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I; and

B. An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act;

(v) Are not modifications under any provision of Title I of the Act; and

(vi) Are not required by ADEM Admin. Code R. 335-3-16-.12 to be processed as a significant modification.

2. Notwithstanding Subparagraph 335-3-16-.13(3)(a)1. of this rule, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.

(b) Application. An application requesting the use of minor permit modification procedures shall meet the requirements of ADEM Admin. Code R. 335-3-16-.04(8) and shall include the following:

1. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

2. The source's suggested draft permit;

3. Certification by a responsible official, consistent with ADEM Admin Code R. 335-3-16-.04(9), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

4. Completed forms for the Department to use to

notify the Administrator and affected States as required under ADEM Admin Code R. 335-3-16-.14.

(c) EPA and affected State notification. Within 5 working days of receipt of a complete permit modification application, the Department shall notify the Administrator and affected States of the requested permit modification. The Department promptly shall send any notice of refusal to accept any recommendations made by the Administrator or the affected States to the Administrator.

(d) Timetable for issuance. The Department may not issue a final permit modification until after EPA's 45-day review period or until EPA has notified the Department that EPA will not object to issuance of the permit modification, whichever is first. Within 90 days of the Department's receipt of an application under minor permit modification procedures or 15 days after the end of the Administrator's 45-day review period under ADEM Admin Code R. 335-3-16-.14(3), whichever is later, the Department shall:

1. Issue the permit modification as proposed;
2. Deny the permit modification application;
3. Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or
4. Revise the draft permit modification and transmit to the Administrator the new proposed permit modification as required by ADEM Admin Code R. 335-3-16-.14(1) of this chapter.

(e) Source's ability to make change.

1. Ten days after the application has been submitted to the Department, the source may make the change for which they applied unless the Department notifies the source earlier that the change qualifies as a minor modification. After the source makes the change allowed by the preceding sentence, and until the Department takes any of the actions specified in subparagraphs ADEM Admin Code R. 335-3-16-.13(3)(d)1.-4., the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

2. If the Department notifies the source that the modification does not qualify as a minor modification within 10 days after receiving the application, then the source shall apply for the change as a significant modification.

(f) The permit shield under ADEM Admin. Code R. 335-3-16-.10 shall not extend to minor permit modifications.

(4) Significant Modifications. Modifications that are significant modifications under the ADEM Admin. Code R. 335-3-14-.04 or ADEM Admin. Code R. 335-3-14-.05 or are modifications under the NSPS or NESHAPS regulations must be incorporated in the Operating Permit using the requirements for sources initially applying for an Operating Permit, including those for applications, public participation, review by affected States, and review by EPA, as described in ADEM Admin. Code R. 335-3-16-.04 and .14.

(5) Reopening for cause.

(a) Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

1. Additional applicable requirements under the Act become applicable to a major source with a remaining permit term of 3 or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.

2. Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

3. The Department or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

4. The Administrator or the Department determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(b) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for

which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

(c) Reopenings under subparagraph 335-3-16-.13(5)(a) of this rule shall not be initiated before a written notice of such intent is provided to the source by the Department at least 30 days in advance of the date that the permit is to be reopened, except that the Department may provide a shorter time period in the case of an emergency.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:

335-3-16-.14 Permit Review by EPA, Affected States and the Public.

(1) Transmission of information to EPA

(a) The Department shall submit each application, each proposed permit and each final permit to EPA. The Department may require the applicant to submit a copy of its application directly to EPA.

(b) Upon agreement with EPA, the Department may submit a summary of the application instead of the full application.

(c) The Department shall keep 5 years of records of the information sent to EPA that is required in subparagraph 335-3-16-.14(1)(a) of this rule.

(2) Review by Affected States.

(a) The Department shall give notice to each Affected State of each draft permit on or before public notice, unless public notice is not required.

(b) The Department shall respond in writing its reasons for refusing to accept an affected State's recommendation.

(3) EPA objection.

(a) If EPA objects in writing within 45 days of receipt of a proposed permit, the Department shall not issue the permit, except the Department may issue a permit that is valid pursuant to Alabama's Air Pollution Control Act only. However, the Department shall advise the source that issuance of such permit shall not provide any protection

from federal requirements.

(b) EPA's objection must include the reasons for the objection and a description of the terms that the permit must include to remedy the objections. EPA shall supply the applicant with a copy of the objection.

(c) Failure of the Department to do any of the following are also grounds for objection:

1. Comply with paragraphs 335-3-16-.14(1) or (2) of this rule:
2. Submit any information requested by EPA in writing necessary to review the permit; or
3. Process the permit under the significant permit modification procedures (unless the modification is minor).

(4) Public participation. Except for modifications qualifying for administrative or minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall use the following procedures to for public notice:

(a) Notice shall be given by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice and also to persons on a mailing list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list;

(b) The notice shall identify the affected facility; the name and address of the permittee; the address of the Department; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, monitoring and compliance certification report, except for information entitled to be kept confidential, and all other materials available to the Department that are relevant to the permit decision; a brief description of the comment procedures required by this ADEM Admin. Code R. 335-3-16-.; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled);

(c) The Department shall provide at least 30 days for

public comment and shall give notice of any public hearing at least 30 days in advance of the hearing; and

(d) The Department shall keep a record of the comments made during the public participation process.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended:



# Appendix G

## Clean Air Act Amendments of 1990 - List of Hazardous Air Pollutants

CAS Number	Chemical name
75070	Acetaldehyde
60355	Acetamide
75058	Acetonitrile
98862	Acetophenone
53963	2-Acetylaminofluorene
107028	Acrolein
79061	Acrylamide
79107	Acrylic acid
107131	Acrylonitrile
107051	Allyl chloride
92671	4-Aminobiphenyl
62533	Aniline
90040	o-Anisidine
1332214	Asbestos
71432	Benzene (including benzene from gasoline)
92875	Benzidine
98077	Benzotrichloride
100447	Benzyl chloride
92524	Biphenyl
117817	Bis(2-ethylhexyl)phthalate (DEHP)
542881	Bis(chloromethyl)ether
75252	Bromoform
106990	1,3-Butadiene
156627	Calcium cyanamide
105602	Caprolactam
133062	Captan
63252	Carbaryl
75150	Carbon disulfide
56235	Carbon tetrachloride
463581	Carbonyl sulfide
120809	Catechol
133904	Chloramben
57749	Chlordane
7782505	Chlorine
79118	Chloroacetic acid
532274	2-Chloroacetophenone
108907	Chlorobenzene
510156	Chlorobenzilate
67663	Chloroform
107302	Chloromethyl methyl ether
126998	Chloroprene
1319773	Cresols/Cresylic acid (isomers and mixture)
95487	o-Cresol
108394	m-Cresol
106445	p-Cresol
98828	Cumene
94757	2,4-D, salts and esters

3547044	DDE
334883	Diazomethane
132649	Dibenzofurans
96128	1,2-Dibromo-3-chloropropane
84742	Dibutylphthalate
106467	1,4-Dichlorobenzene(p)
91941	3,3-Dichlorobenzidine
111444	Dichloroethylether (Bis(2-chloroethyl)ether)
542756	1,3-Dichloropropene
62737	Dichlorvos
111422	Diethanolamine
121697	N,N-Diethyl aniline (N,N-Dimethylaniline)
64675	Diethyl sulfate
119904	3,3-Dimethoxybenzidine
60117	Dimethyl aminoazobenzene
119937	3,3-Dimethyl benzidine
79447	Dimethyl carbamoyl chloride
68122	Dimethyl formamide
57147	1,1-Dimethyl hydrazine
131113	Dimethyl phthalate
77781	Dimethyl sulfate
534521	4,6-Dinitro-o-cresol, and salts
51285	2,4-Dinitrophenol
121142	2,4-Dinitrotoluene
123911	1,4-Dioxane (1,4-Diethyleneoxide)
122667	1,2-Diphenylhydrazine
106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)
106887	1,2-Epoxybutane
140885	Ethyl acrylate
100414	Ethyl benzene
51796	Ethyl carbamate (Urethane)
75003	Ethyl chloride (Chloroethane)
106934	Ethylene dibromide (Dibromoethane)
107062	Ethylenedichloride (1,2-Dichloroethane)
107211	Ethylene glycol
151564	Ethylene imine (Aziridine)
75218	Ethylene oxide
96457	Ethylene thiourea
75343	Ethylidenedichloride (1,1-Dichloroethane)
50000	Formaldehyde
76448	Heptachlor
118741	Hexachlorobenzene
87683	Hexachlorobutadiene
77474	Hexachlorocyclopentadiene
67721	Hexachloroethane
822060	Hexamethylene-1,6-diisocyanate
680319	Hexamethylphosphoramide
110543	Hexane
302012	Hydrazine
7647010	Hydrochloric acid
7664393	Hydrogen fluoride (Hydrofluoric acid)
7783064	Hydrogen sulfide
123319	Hydroquinone
78591	Isophorone

APPENDIX D

NONATTAINMENT AREAS

PM<sub>10</sub>

(Sub-County Designations)

None

Sulfur Dioxide

(Sub-County Designations)

None

Secondary:

Colbert-Lauderdale-Co.-(Tennessee  
Valley-Authority's-Colbert-Steam-Plant  
area)

Ozone (Marginal)

(County-Wide Designations)

Jefferson County  
Shelby County

58899	<u>Lindane (all isomers)</u>
108316	<u>Maleic anhydride</u>
67561	<u>Methanol</u>
72435	<u>Methoxychlor</u>
74839	<u>Methyl bromide (Bromomethane)</u>
74873	<u>Methyl chloride (Chloromethane)</u>
71556	<u>Methylchloroform (1,1,1-Trichloroethane)</u>
78933	<u>Methyl ethyl ketone (2-Butanone)</u>
60344	<u>Methyl hydrazine</u>
74884	<u>Methyl iodide (Iodomethane)</u>
108101	<u>Methyl isobutyl ketone (Hexone)</u>
624839	<u>Methyl isocyanate</u>
80626	<u>Methyl methacrylate</u>
1634044	<u>Methyl tert butyl ether</u>
101144	<u>4,4-Methylene bis(2-chloroaniline)</u>
75092	<u>Methylene chloride (Dichloromethane)</u>
101688	<u>Methylene diphenyl diisocyanate (MDI)</u>
101779	<u>4,4-Methylenedianiline</u>
91203	<u>Naphthalene</u>
98953	<u>Nitrobenzene</u>
92933	<u>4-Nitrobiphenyl</u>
100027	<u>4-Nitrophenol</u>
79469	<u>2-Nitropropane</u>
684935	<u>N-Nitroso-N-methylurea</u>
62759	<u>N-Nitrosodimethylamine</u>
59892	<u>N-Nitrosomorpholine</u>
56382	<u>Parathion</u>
82688	<u>Pentachloronitrobenzene (Quintobenzene)</u>
87865	<u>Pentachlorophenol</u>
108952	<u>Phenol</u>
106503	<u>p-Phenylenediamine</u>
75445	<u>Phosgene</u>
7803512	<u>Phosphine</u>
7723140	<u>Phosphorus</u>
85449	<u>Phthalic anhydride</u>
1336363	<u>Polychlorinated biphenyls (Aroclors)</u>
1120714	<u>1,3-Propane sultone</u>
57578	<u>beta-Propiolactone</u>
123386	<u>Propionaldehyde</u>
114261	<u>Propoxur (Baygon)</u>
78875	<u>Propylenedichloride (1,2-Dichloropropane)</u>
75569	<u>Propylene oxide</u>
75558	<u>1,2-Propylenimine (2-Methyl aziridine)</u>
91225	<u>Quinoline</u>
106514	<u>Quinone</u>
100425	<u>Styrene</u>
96093	<u>Styrene oxide</u>
1746016	<u>2,3,7,8-Tetrachlorodibenzo-p-dioxin</u>
79345	<u>1,1,2,2-Tetrachloroethane</u>
127184	<u>Tetrachloroethylene (Perchloroethylene)</u>
7550450	<u>Titanium tetrachloride</u>
108883	<u>Toluene</u>
95807	<u>2,4-Toluene diamine</u>
584849	<u>2,4-Toluene diisocyanate</u>

95534	<u>o-Toluidine</u>
8001352	<u>Toxaphene (chlorinated camphene)</u>
120821	<u>1,2,4-Trichlorobenzene</u>
79005	<u>1,1,2-Trichloroethane</u>
79016	<u>Trichloroethylene</u>
95954	<u>2,4,5-Trichlorophenol</u>
88062	<u>2,4,6-Trichlorophenol</u>
121448	<u>Triethylamine</u>
1582098	<u>Trifluralin</u>
540841	<u>2,2,4-Trimethylpentane</u>
108054	<u>Vinyl acetate</u>
593602	<u>Vinyl bromide</u>
75014	<u>Vinyl chloride</u>
75354	<u>Vinylidenechloride (1,1-Dichloroethylene)</u>
1330207	<u>Xylenes (isomers and mixture)</u>
95476	<u>o-Xylenes</u>
108383	<u>m-Xylenes</u>
106423	<u>p-Xylenes</u>
0	<u>Antimony Compounds</u>
0	<u>Arsenic Compounds (inorganic including arsine)</u>
0	<u>Beryllium Compounds</u>
0	<u>Cadmium Compounds</u>
0	<u>Chromium Compounds</u>
0	<u>Cobalt Compounds</u>
0	<u>Coke Oven Emissions</u>
0	<u>Cyanide Compounds *1</u>
0	<u>Glycol ethers *2</u>
0	<u>Lead Compounds</u>
0	<u>Manganese Compounds</u>
0	<u>Mercury Compounds</u>
0	<u>Fine mineral fibers *3</u>
0	<u>Nickel Compounds</u>
0	<u>Polycyclic Organic Matter *4</u>
0	<u>Radionuclides (including radon) *5</u>
0	<u>Selenium Compounds</u>

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

\*1 X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or Ca(CN)2

\*2 Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH2CH2)n-OR' where

n = 1, 2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure: R-(OCH<sub>2</sub>CH)<sub>n</sub>-OH. Polymers are excluded from the glycol category.

\*3 Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

\*4 Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100-C.

\*5 A type of atom which spontaneously undergoes radioactive decay.

**Part I – Proposal Revised in Response to Comment**

## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

## Air Division

Chapter 335-3-10  
Standards of Performance for New Stationary Sources

## Table of Contents

335-3-10-.01	General
335-3-10-.02	Designated Standards of Performance
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335-3-10-.01 General.

(1) The Environmental Protection Agency Regulations, and the Appendices applicable thereto, governing Standards of Performance for New Stationary Sources (40 CFR 60 and Appendices) designated in Rules 335-3-10-.02 and 03 are incorporated by reference as they exist in 40 CFR 60 ~~(1990)~~ (1992), 57 FR 30654 (July 10, 1992), 57 FR 44496 (September 28, 1993), and 58 FR 40591 (July 29, 1993) ~~56 FR-12299-(March-22, 1991)-and-56-FR-20497-(May-3, 1991)~~, as amended by the word or phrase substitutions given in Rule 335-3-10-.04. References for specific documents containing the complete text of subject regulations are given in Appendix C to these Regulations.

The materials incorporated by reference are available for purchase and inspection at the Department's offices at 1751 Cong. W. L. Dickinson Drive, Montgomery, Alabama 36109.

(2) Chapters 335-3-3, -4, -5, -6, -7, and -8 shall not apply to source categories subject to this Chapter for the specific pollutants to which a standard under this Chapter applies.

(3) Definitions. For purposes of this Chapter, the definitions listed in 40 CFR 60.2 will apply.

## Author:

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: May 25, 1976.

Amended: Effective Date: February 13, 1985; June 9, 1987; June 16, 1988; September 21, 1989; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 24, 1991; 1993



335-3-10-.02

335-3-10-.02 Designated Standards of Performance.

(1) Subpart D - Fossil Fuel-Fired Steam Generators for which construction is commenced after August 17, 1971.

(a) Subpart Da - Electric Utility Steam Generating Units for which construction is commenced after September 18, 1978

(b) Subpart Db - Industrial-Commercial-Institutional Steam Generating Units.

(c) Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units.

(2) Reserved.

(3) Subpart E - Incinerators.

(a) Subpart Ea - Municipal Waste Combustors.

(4) Subpart F - Portland Cement Plants.

(5) Subpart G - Nitric Acid Plants.

(6) Subpart H - Sulfuric Acid Plants.

(7) Subpart I - Hot Mix Asphalt Facilities.

(8) Subpart J - Petroleum Refineries.

(9) Subpart K - Storage Vessels for Petroleum Liquids constructed after June 11, 1973 and prior to May 19, 1978.

(a) Subpart Ka - Storage Vessels for Petroleum Liquids constructed after May 18, 1978.

(b) Subpart Kb - Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 12, 1984.

(10) Reserved.

(11) Reserved.

(12) Subpart L - Secondary Lead Smelters.

- (13) Subpart M - Secondary Brass and Bronze Ingot Production Plants.
- (14) Subpart N - Iron and Steel Plants.
- (a) Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which construction is commenced after January 20, 1983.
- (15) Subpart O - Sewage Treatment Plants.
- (16) Subpart P - Primary Copper Smelters.
- (17) Subpart Q - Primary Zinc Smelters.
- (18) Subpart R - Primary Lead Smelters.
- (19) Subpart S - Primary Aluminum Reduction Plants.
- (20) Subpart T - Wet Process Phosphoric Acid Plants.
- (21) Subpart U - Superphosphoric Acid Plants.
- (22) Subpart V - Diammonium Phosphate Plants.
- (23) Subpart W - Triple Superphosphate Plants.
- (24) Subpart X - Granular Triple Superphosphate Storage Facilities.
- (25) Subpart Y - Coal Preparation Plants.
- (26) Subpart Z - Ferroalloy Production Facilities.
- (27) Subpart AA - Steel Plants (Electric arc furnaces and dust-handling equipment).
- (a) Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon Oxygen - Decarburization Vessels.
- (28) Subpart BB - Kraft Pulp Mills.
- (29) Subpart CC - Standards of Performance for Glass Manufacturing Plants.
- (30) Subpart DD - Grain Elevators.
- (31) Subpart EE - Surface Coating of Metal Furniture.

- (32) Subpart FF - Reserved.
- (33) Subpart GG - Stationary Gas Turbines.
- (34) Subpart HH - Lime Manufacturing Plants.
- (35) Subpart II - Reserved.
- (36) Subpart JJ - Reserved.
- (37) Subpart KK - Lead-Acid Battery Manufacture.
- (38) Subpart LL - Metallic Mineral Processing Plants.
- (39) Subpart MM - Automobile and Light-Duty Truck Surface Coating Operations.
- (40) Subpart NN - Phosphate Rock Plants.
- (41) Subpart OO - Reserved.
- (42) Subpart PP - Ammonium Sulfate Manufacturing.
- (43) Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.
- (44) Subpart RR - Pressure Sensitive Tape and Label Surface Coating Industry.
- (45) Subpart SS - Industrial Surface Coating - Large Appliances.
- (46) Subpart TT - Metal Coil Surface Coating Operations.
- (47) Subpart UU - Asphalt Processing and Asphalt Roofing Manufacture.
- (48) Subpart VV - Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry.
- (49) Subpart WW - Beverage Can Surface Coating Industry.
- (50) Subpart XX - Bulk Gasoline Terminals.
- (51) Subpart YY - Reserved.
- (52) Subpart ZZ - Reserved.

- (53) Subpart AAA - Reserved.
- (54) Subpart BBB - Rubber Tire Manufacturing Industry.
- (55) Subpart CCC - Reserved.
- (56) Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
- (57) Subpart EEE - Reserved.
- (58) Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.
- (59) Subpart GGG - VOC Fugitive Emission Sources - Petroleum Refineries.
- (60) Subpart HHH - Synthetic Fiber Production Facilities.
- (61) Subpart III - VOC Emissions from SOCFI Air Oxidation Unit Processes.
- (62) Subpart JJJ - Petroleum Dry Cleaners.
- (63) Subpart KKK - Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
- (64) Subpart LLL - Standards of Performance for Onshore Natural Gas Processing: SO<sub>2</sub> Emissions.
- (65) Subpart MMM - Reserved.
- (66) Subpart NNN - VOC Emissions from SOCFI Distillation Operations.
- (67) Subpart OOO - Nonmetallic Mineral Processing Plants.
- (68) Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.
- (69) Subpart QQQ - VOC Emissions from Petroleum Refinery Wastewater Systems.
- (70) Subpart RRR - Reserved.
- (71) Subpart SSS - Magnetic Tape Manufacturing Industry.

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(72) Subpart TTT - Industrial Surface Coating;  
Plastic Parts for Business Machines.

(73) Subpart UUU - Reserved Calciners and Dryers in  
Mineral Industries.

(74) Subpart VVV - Polymeric Coating of Supporting  
Substrates.

Author:

Statutory Authority: Code of Alabama 1975, §§ 22-28-14,  
22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: May 25, 1976.

Amended: Effective Date: June 23, 1981; February 13,  
1985; April 15, 1987; June 16, 1988; September 21, 1989;  
November 1, 1990; March 28, 1991; July 31, 1991;  
September 19, 1991; October 24, 1991; \_\_\_\_\_ 1993.

335-3-10-.03 Appendices to 40 CFR 60.

(1) Appendix A - Reference Method.

(2) Appendix B - Performance Specifications.

(3) Appendix F - Quality Assurance Procedures.

Author: Robert Cowne

Statutory Authority: Code of Alabama, 1975 §§22-28-14,  
22-22A-5, 22-22A-6, 22-22A-8.

History: Effective Date: June 16, 1988.

Amended: Effective Date: November 1, 1990; March 28,  
1991; July 31, 1991; September 19, 1991; October 24, 1991;  
\_\_\_\_\_ 1993.

335-3-10-.04 Word or Phrase Substitutions. In all the  
standards designated in Rule 335-3-10-.02 substitute:

(1) Director for Administrator.

(2) Department for U. S. Environmental Protection  
Agency (except in references).

Author:

Statutory Authority: Code of Alabama, 1975, §§22-28-14,  
22-22A-5, 22-22A-6, 22-22A-8.

History: Effective Date: May 25, 1976

Amended: Effective Date: February 13, 1985; June 16,  
1988.

## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

## Air Division

## Chapter 335-3-11

## National Emission Standards for Hazardous Air Pollutants

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335-3-11-.01	<u>General.</u>

(1) The Environmental Protection Agency Regulations, and the Appendices applicable thereto, governing Hazardous Air Pollutants (40 CFR, Part 61 and Appendices) designated in Rule 335-3-11-.02 are incorporated by reference as they exist in 40 CFR 61 ~~(1991)~~ (1992), and 58 FR 3072 ~~56-FR 47404-(September-19, 1991)-and-57-FR-8012-(March-5, 1992)~~, as amended by the word or phrase substitutions given in Rule 335-3-11-.03. References for specific documents containing the complete text of subject regulations are given in Appendix C to these Regulations.

The materials incorporated by reference are available for purchase and inspection at the Department's offices at 1751 Cong. W. L. Dickinson Drive, Montgomery, Alabama 36109.

(2) In the event of any conflict between the regulations contained in this Chapter and regulations contained in other chapters, the more stringent regulations will take precedence.

(3) Definitions. For purposes of this Chapter, the definitions listed in 40 CFR 61.02, Subpart A will apply.

## Author:

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: May 25, 1976.

Amended: Effective Date: February 13, 1985; June 9, 1987; June 16, 1988; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 30, 1992.

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335-3-11-.02 Designated Emission Standards.

- (1) Subpart B - Radon-222 Emission from Underground Uranium Mines.
- (2) Subpart C - Beryllium.
- (3) Subpart D - Beryllium Rocket Motor Firing.
- (4) Subpart E - Mercury.
- (5) Subpart F - Vinyl Chloride.
- (6) Reserved.
- (7) Reserved.
- (8) Reserved.
- (9) Subpart J - Benzene Equipment Leaks
- (10) Reserved.
- (11) Subpart L - Benzene Emissions from Coke By-Product Recovery Plants.
- (12) Subpart M - Asbestos.
- (13) Subpart N - Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants.
- (14) Subpart O - Standard for Inorganic Arsenic Emissions from Primary Copper Smelters.
- (15) Subpart P - Standard for Inorganic Arsenic Emission from Arsenic Trioxide and Metallic Arsenic Production Facilities.
- (16) Reserved.
- (17) Reserved.
- (18) Reserved.
- (19) Reserved.
- (20) Reserved.
- (21) Subpart V - Equipment Leaks (Fugitive Emission Sources).

(22) Subpart W - Radon-222 Emissions from Licensed Uranium Mill Tailings.

(23) Reserved.

(24) Subpart Y - Benzene Emissions from Benzene Storage Vessels.

(25) Reserved.

(26) Reserved.

(27) Subpart BB - Benzene Emissions from Benzene Transfer Operations.

(28) Reserved.

(29) Reserved.

(30) Reserved.

(31) Subpart FF - Benzene Emissions from Benzene Waste Operations.

Author:

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: May 25, 1976.

Amended: Effective Date: June 23, 1981; February 13, 1985; June 9, 1987; November 1, 1990; March 28, 1991; July 31, 1991; September 19, 1991; October 30, 1992; 1993.

335-3-11-.03 Appendices to 40 CFR 61.

Appendix B - Test Methods.

Author: Robert W. Cowne

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: June 16, 1988

Amended: Effective Date: March 28, 1991.

335-3-11-.04 Word or Phrase Substitutions. In all of the standards designated in Rule 335-3-11-.02 substitute:

(1) Director for Administrator.

(2) Department for U. S. Environmental Protection Agency (except in references).



335-3-11-.04

Author:

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: May 25, 1976.

Amended: Effective Date: February 13, 1985; June 16, 1988.

335-3-11-.05 Certification of Asbestos Abatement Contractors.

(1) Any person, firm, organization, or corporation who is the owner or operator of any asbestos removal project for which notification is required pursuant to the requirements of Section 335-3-11-.02(12) shall ensure that the parties executing the asbestos removal project are certified by the Department.

(2) Procedures for application for certification and recertification.

(a) An application for certification or recertification must be completed on forms that are supplied by the Department.

(b) Initial applications for certification may be submitted at any time after the adoption of this Rule. Applications for recertification must be submitted to the Department within a timeframe which is not greater than sixty (60) days or less than thirty (30) days prior to expiration of the existing certification.

(c) Applications shall include, at minimum, the following information:

1. Lists of supervisors and workers, including their accreditation numbers issued by the state-approved accreditation program.

2. A list of asbestos removal operations performed by the party during the previous twelve (12) months.

3. Assurance that all supervisors or workers used in asbestos removal operations employed by the party shall have a current accreditation by the state-approved accreditation program before performing any work inside or outside a removal site.

4. A written certification from the principal officer or person stating that he/she understands state regulations pertaining to asbestos removal and will abide by said regulations.

(d) The Department may issue a certificate of certification to a party if it has been determined that:

1. Each supervisor and worker involved in asbestos removal is accredited by the state-approved accreditation program.

2. All application forms and attachments are properly completed and have been submitted.

3. The application fees have been paid.

(e) The Department may deny certification if it determines that the applicant is unable or unwilling to fully comply with applicable requirements, procedures, rules and standards promulgated or established by the Commission or the Department. All notices regarding the denial of certification will be sent via certified mail.

(3) Parties must reapply annually in order to maintain proper certification.

(4) A copy of the party's current certification must be available at each of its removal sites.

(5) Annual accreditation of supervisors and workers is required.

(6) Copies of accreditation for every supervisor and worker must be kept at each removal site.

(7) The Department may revoke certification of any party duly certified if the party repeatedly fails to comply with applicable rules and standards or fails to comply with any certification requirements.

(8) The requirements of this Rule become enforceable 120 days after the effective date.

Author: Ludwig C. Hoffmann III

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, 22-22A-8, and 22-39-5.

History: Effective Date: November 1, 1990.

Amended: Effective Date:

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Air Division

Chapter 335-3-14

Air Permits

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335-3-14-.01 General Provisions.

(1) Air Permit.

(a) Any person building, erecting, altering, or replacing any article, machine, equipment, or other contrivance, the use of which may cause the issuance of or an increase in the issuance of air contaminants or the use of which may eliminate or reduce or control the issuance of air contaminants, shall ~~first obtain authorization for such construction from the Director in the form of an Air Permit.~~ submit an application for an Air Permit at least 10 days prior to construction.

(b) Before any article, machine, equipment, or other contrivance described in Paragraph 335-3-14-.01(1)(a) may be operated or used, authorization shall be obtained from the Director in the form of an Air Permit. No Permit shall be granted for any article, machine, equipment or contrivance described in Paragraph 335-3-14-.01(1)(a), constructed or installed without ~~authorization notification~~ as required by Paragraph 335-3-14-.01(1)(a), until the information required is presented to the Director and such article, machine, equipment or contrivance is altered, if necessary, and made to conform to the standards established by the Department.

(c) Any article, machine, equipment, or other contrivance described in Paragraph 335-3-14-.01(1)(a) which is presently operating (or which is not presently operating but which is capable of being operated) without an Air Permit may continue to operate (or may restart) only if its owner or operator obtains an Air Permit prior to a date to be set by the Director (or prior to restarting).

(d) Display of Air Permit. A person who has been granted an Air Permit for any article, machine, equipment, or other contrivance shall keep such permit under file or on display at all times at the site where the article, machine, equipment, or other contrivance is located and will make such a permit readily available for inspection by any and all persons who may request to see it.

(e) The Director shall have the authority to decide cases where an article, machine, equipment, or other contrivance is not clearly subject to nor exempt from the application of this Rule. In addition, the Director may rule that a particular article, machine, equipment, or other contrivance is subject to the application of this Rule even though it is exempt from the system according to Paragraph 335-3-14-.01(1)(a) and Section 335-3-14-.01(5) of this Rule. The operator or builder of such an article, machine, equipment, or other contrivance may appeal the Director's classification to the Commission, which shall overrule the Director only if it is shown that he acted arbitrarily and contrary to the purposes of the Act.

(f) Upon completion of construction by a new facility, the Director shall, within a reasonable period of time, dispatch an inspector to the facility in question. If the inspector determines that the facility has been constructed according to the specifications as set forth under the Air Permit or that any changes to the facility would reduce or affect to an unsubstantial degree that quantity of air contaminants emitted by the facility, and if a reviewing officer of the Division agrees with this conclusion, then the Director shall authorize initial operation of the facility until an official inspection of the facility under actual operating conditions can be made and the results reviewed or until the Air Permit is suspended or revoked by the Director. The Director may authorize initial operation of the facility without an inspection if the applicant fulfills the following requirements:

~~1. The application for an Air Permit is filled out and countersigned by a Professional Engineer familiar with air pollution control as it relates to the equipment under application.~~

~~2. Upon completion of the construction, a Professional Engineer an owner or operator familiar with the application for an Air Permit submits a letter to the Director, signed and sealed with his professional stamp, testifying that the construction under application has been completed and is in accordance with the specification as set down in the Air Permit. The Director is empowered to reject that testimony of the Professional Engineer if the Director decides that the Professional Engineer's owner or operator's qualifications are insufficient to allow him to~~

accurately and completely assess the equipment in question. ~~A Professional Engineer owner or operator~~ may appeal any such judgment to the Commission.

(g) The Director may issue an Air Permit subject to conditions which will bring the operation of any article, machine, equipment, or other contrivance within the standards of Section 335-3-14-.03(1) in which case the conditions shall be specified in writing. Commencing construction or operation under such an Air Permit shall be deemed acceptance of all the conditions specified. The Director shall issue an Air Permit with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment, or other contrivance can operate within the standards of Section 335-3-14-.03(1) under the revised conditions.

~~(h) An Air Permit may allow an article, machine, or other contrivance to be operated in violation of the conditions of Section 335-3-14-.03(1) if one of the conditions of the permit is a definite schedule by which the article, machine, equipment or contrivance may attain the conditions of Section 335-3-14-.03(1) and if the schedule provides for attaining the conditions of Section 335-3-14-.03(1) at the earliest possible date and is approved by the Director. An Air Permit will be revoked if the applicant does not submit progress reports to the Director according to the schedule established by the Air Permit. The Director may further revoke the Air Permit if the progress reports do not show satisfactory progress as specified by the terms of the Air Permit or if the progress reports are found to be inaccurate. Reserved.~~

~~(i) An Air Permit that allows any new article, machine, equipment, or contrivance to operate in violation of the requirements of Section 335-3-14-.03(1) may not be granted for a period of time greater than one year, including all renewals. Reserved.~~

~~(j) No Air Permit issued under Paragraphs 335-3-14-.01(1)(h) and 335-3-14-.01(1)(i) for any existing article, machine, equipment, or contrivance may be granted for a period of time longer than the greater of the following periods:~~

~~1. The period from the granting of the permit to a date three years after the date of initial adoption of an applicable rule or regulation.~~

~~2. The period from the granting of the permit to a date three years after the date the Administrator of the U.S. Environmental Protection Agency approves, in accordance with Section 110 of the Federal Act, such applicable rule or regulation as a part of an implementation plan (or any revision thereof). Reserved.~~

(k) An existing facility which holds a Synthetic Minor Operating Permit issued under ADEM Admin. Code R. 335-3-15 or an Operating Permit issued under ADEM Admin. Code R. 335-3-16 is exempt from the requirements of this chapter provided that:

1. the Synthetic Minor Operating Permit is modified as required by ADEM Admin Code R. 335-3-15 prior to the initial operation of any new or modified sources, or

2. the Operating Permit is modified as required by ADEM Admin. Code R. 335-3-16 and any modifications are not subject to the requirments of ADEM Admin. Code R. 335-3-14-.04, or

3. for a modification which is subject to the requirments of ADEM Admin. Code R. 335-3-14-.04, the Operating Permit is issued prior to commencement of construction of the modification, and the Operating Permit fulfills all requirements of ADEM Admin. Code R. 335-3-14-.04, or

4. the Operating Permit is modified as required by ADEM Admin Code R. 335-3-16 and any modifications are not subject to the requirments of ADEM Admin. Code R. 335-3-14-.05, or

5. for a modification which is subject to the requirments of ADEM Admin. Code R. 335-3-14-.05, the Operating Permit is issued prior to commencement of construction of the modification, and the Operating Permit fulfills all requirements of ADEM Admin. Code R. 335-3-14-.05.

(2) Provision of Sampling and Testing Facilities. A person operating or using any article, machine, equipment or other contrivance for which these rules and regulations require a permit shall provide and maintain such sampling and testing facilities as specified in the Air Permit.

(3) The holder of a Permit under this Rule shall comply with conditions contained in such Permit as well as all applicable provisions of these rules and regulations ~~except where violations are specifically allowed in accordance with an Air Permit issued under Paragraphs 335-3-14-.01(1)(h) and 335-3-14-.01(1)(i).~~

(4) Transfer. An Air Permit shall not be transferable whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.

(5) Exemptions. From time to time the Director may specify certain classes or sizes of articles, machines,

equipment, or other contrivances which would normally be subject to the requirements to ~~obtain~~ apply for an Air Permit as being exempt from the requirement to ~~obtain~~ apply for such permits. Exempt sources are subject in every other way to these rules and regulations.

(6) Delegation of Air Permit requirements to Local Air Pollution Control Programs.

(a) Local air pollution control programs may receive delegation of authority from the Director to administer the general Air Permit requirements of Section 335-3-14-.01(1) within their jurisdiction provided the local air pollution control program:

1. adopts regulations insuring applicants are required to satisfy the same requirements as contained in the Department's regulations; and

2. adopts regulations which require the Director to be provided with an opportunity to review the permit application, the analysis of the permit, and proposed permit conditions at least 10 days prior to issuance of an Air Permit.

(b) Local air pollution control programs may receive delegation of authority from the Director to administer the Air Permit requirements of Section ~~335-3-14-.03(2)~~ 335-3-14-.05 and Rule 335-3-14-.04 within their jurisdiction provided:

1. the requirements of Subparagraph 335-3-14-.01(6)(a)(1) are met; and

2. the local air pollution control program demonstrates that it has the necessary manpower and technical expertise to implement the requirements of said regulations; and

3. the local air pollution control program adopts regulations which require that the local air pollution control program shall provide the Director a copy of preliminary determinations and public comment notices for all permits issued pursuant to Section ~~335-3-14-.03(2)~~ 335-3-14-.05 and Rule 335-3-14-.04 at the same time the notice is forwarded for publication in the newspaper.

(c) If the Director of ADEM determines that local program procedures for implementing all the portions of Section 335-3-14-.01(1), Section ~~335-3-14-.03(2)~~ 335-3-14-.05 and Rule 335-3-14-.04 are inadequate, or are not being effectively carried out, any authority delegated to the local programs to administer Section 335-3-14-.01(1), Section ~~335-3-14-.03(2)~~ 335-3-14-.05, and Rule 335-3-14-.04 may be revoked in whole or in part. Any such revocation

shall be effective as of the date specified in a Notice of Revocation to the local air pollution control program. .

(d) The Director reserves the authority contained in Section 335-3-14-.02(4), to revoke any Air Permit issued pursuant to this Section.

(e) Any Air Permit issued by a local air pollution control program, including all conditions contained therein, is enforceable by the ADEM.

(7) Public Participation

(a) Notice shall be given by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice and also to persons on a mailing list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list, under the following circumstances:

1. Construction at a Greenfield Site.

(i) For the purposes of this paragraph, a "Greenfield Site" shall mean a new development or the initial operation of a new facility.

2. The Director, at his discretion, may require Public Notification for any application received in accordance with Paragraph 335-3-14-.01(1)(a).

(b) Public comments will be received by the Department for a period of 15 days following the publication of the public notice.

(c) Public Notice will be held in accordance with the requirements of 335-3-14-.04 and 335-3-14-.05 for any application which is subject to the requirements of 335-3-14-.04 or 335-3-14-.05.

(d) Construction of any article, machine, equipment, or other contrivance as described in Paragraph 335-3-14-.01(1)(a) shall not commence until after an Air Permit is issued if a public notice is required under this Section.

Author: James W. Cooper and John E. Daniel  
Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.  
History: Effective Date: January 18, 1972.  
Amended: April 3, 1979; February 13, 1985.

335-3-14-.02 Permit Procedure.

(1)(a) Applications. Every application for an Air



Permit required under Section 335-3-14-.01(1) shall be filed in the manner and form prescribed by the Director and shall give all the information necessary to enable the Director to make the determination required by Rule 335-3-14-.03.

(b) Cancellation of Applications. An Air Permit authorizing construction shall expire and the application shall be canceled two years from the date of issuance of the Air Permit if the construction has not begun.

(2) Action on Application. The Director shall act, within a reasonable time, on an application for an Air Permit and shall notify the applicant in writing of its approval, conditional approval, or denial.

(3) Denial of Application. In the event of a denial of an Air Permit, the Director shall notify the applicant in writing of the reason therefor. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgement of the persons served or affidavit of the person making the service. The Director shall not accept a further application unless the applicant has complied with the objections specified by the Director as its reasons for denial of the Air Permit.

(4) Revocation of Air Permits. Any Air Permit granted by the Director may be revoked for any of the following causes:

(a) failure to comply with any conditions of the permit;

(b) failure to notify the Director prior to intended use or operation of any article, machine, equipment, or other contrivance described in Paragraph 335-3-14-.01(1) (a);

(c) failure to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods; and sample such emissions in accordance with such methods at such locations, intervals and procedures as the Director may prescribe in accordance with Section 335-3-1-.04(2);

(d) failure to comply with any provisions of any Departmental administrative order issued concerning the permitted source or facility.

(e) failure to allow employees of the Department upon proper identification:

1. to enter any premises where any article, machine, equipment, or other contrivance described in Section 335-3-

14-.01(1) is located or in which any records are required to be kept under provisions of the permit and/or the rules and regulations;

2. to have access to and copy any records required to be kept under provisions of the permit and/or the rules and regulations;

3. to inspect any monitoring equipment or practices being maintained pursuant to the permit and/or rules and regulations; and

4. to have access to and sample any discharge of air contaminants resulting directly or indirectly from the operation of any article, machine, equipment, or other contrivance described in Section 335-3-14-.01(1).

(f) failure to comply with the rules and regulations of the Department.

(g) for any other cause, after a hearing which establishes, in the judgment of the Department, that continuance of the permit is not consistent with the purpose of this Act or regulations under it.

(5) Expiration of Air Permits. Air Permits shall expire immediately following:

(a) the issuance of a Synthetic Minor Operating Permit required by ADEM Admin. Code R. 335-3-15 or an Operating Permit required by ADEM Admin. Code R. 335-3-16 which pertains to the article, machine, equipment, or other contrivance regulated by the Air Permit.

(b) the final denial of a Synthetic Minor Operating Permit required by ADEM Admin. Code R. 335-3-15 or an Operating Permit required by ADEM Admin. Code R. 335-3-16 which pertains to the article, machine equipment, or other contrivance regulated by the Air Permit.

(c) the failure of a facility to apply for a Synthetic Minor Operating Permit or modification to an existing Synthetic Minor Operating Permit as required by ADEM Admin. Code R. 335-3-15 or the failure of a facility to apply for an Operating Permit or modification to an existing Operating Permit as required by ADEM Admin. Code R. 335-3-16.

Author: James W. Cooper and John E. Daniel  
Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.  
History: Effective Date: January 18, 1972.  
Amended: April 3, 1979; February 13, 1985.

(1) General Standards.

(a) The Director shall deny a permit if the applicant does not show that every article, machine, equipment, or other contrivance, the use of which may cause the issuance of air contaminants, is so designed, controlled, or equipped with such air pollution control equipment, that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of these rules and regulations.

(b) The Director shall deny a permit if the applicant does not present, in writing, a plan whereby the emission of air contaminants by every article, machine, equipment, or other contrivance described in the permit application, will be reduced during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency in accordance with the provisions of Chapter 335-3-2, where such a plan is required.

(c) Before an Air Permit is granted, the Director may require the applicant to provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or degree of air contaminants discharged into the atmosphere from the article, machine, equipment, or other contrivance described in the Air Permit. In the event of such a requirement, the Director shall notify the applicant in writing of the required size, number, and location of the sampling platform; the access to the sampling platform; and the utilities for operating and sampling and testing equipment.

(d) The Director may also require the applicant to install, use, and maintain such monitoring equipment or methods; sample such emissions in accordance with such methods, at such locations, intervals, and procedures as may be specified; and provide such information as the Director may require.

(e) Before acting on an application for an Air Permit, the Director may require the applicant to furnish further information or further plans or specifications.

(f) If the Director finds that the article, machine, or other contrivance has been constructed not in accordance with the Air Permit, and if the changes noted are of a substantial nature in that the amount of air contaminants emitted by the article, machine, equipment, or other contrivance may be increased, or in that the effect is unknown, then he shall revoke the Air Permit. The Director shall not accept any further application for an Air Permit

until the article, machine, equipment, or other contrivance has been reconstructed in accordance with said Air Permit or until the applicant has proven to the satisfaction of the Director that the change will not cause an increase in the emission of air contaminants.

(g)1. The Director shall deny an Air Permit where he determines that the construction and operation of such source will interfere with attaining or maintaining any primary or secondary standard established by Section ~~335-3-1-.04(1)~~ 335-3-1-.03(1). A new source or modification will be considered to interfere with attaining or maintaining a standard when such source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the NAAQS:

POLLUTANT

AVERAGING TIME

	Annual	24 hours	8 hours	3 hours	1 hour
SO <sub>2</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>		25 µg/m <sup>3</sup>	
PM <sub>10</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>			
NO <sub>2</sub>	1.0 µg/m <sup>3</sup>				
CO			0.5 mg/m <sup>3</sup>		2 mg/m <sup>3</sup>

2. A proposed major source or major modification subject to this Paragraph may reduce the impact of its emissions upon air quality by obtaining sufficient emissions reductions to, at a minimum, compensate for its adverse ambient impact where this impact would otherwise cause or contribute to a violation of any national ambient air quality standard or exceed the significance levels of Subparagraph 335-3-14-.03(1)(g)1. above. In the absence of such emission reductions, the Director shall deny the proposed construction.

3. The requirements of Paragraph 335-3-14-.03(1)(g) shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment pursuant to Section 107 of the federal Clean Air Act.

~~(h) In granting any Air Permit, the Director may allow, as a condition of such permit, for the intermittent discharge of air contaminants, during startup, shutdown, rate change, or load change in excess of the limitations specified in these rules and regulations where he finds~~

~~that because of the nature of the source there is no practicable alternative.~~

(h) Exceptions to violations of emissions limits

1. The Director may, in the Air Permit, exempt on a case by case basis any exceedances of emission limits which cannot reasonably be avoided, such as during periods of start-up, shut-down or load change.

2. Emergency provision

(i) An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the facility, including acts of God, which situation require immediate corrective action to restore normal operation, and that causes the facility to exceed a technology based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(ii) Exceedances of emission limitations during emergencies (as defined above) at a facility may be exempted as being violations provided that:

(I) the permittee can identify the cause(s) of the emergency;

(II) the permitted facility was at the time being properly operated;

(III) during the period of the emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements of the permit;

(IV) the permittee submitted notice of the emergency to the Department within 2 working days of the time when the emissions limitations were exceeded due to the emergency; and

(V) the permittee immediately documented the emergency exceedance in an "Emergency Log", which shall be maintained for 5 years in a form suitable for inspection upon request by a representative of the Department.

(iii) The Director shall be the sole determiner of whether an emergency has occurred.

(iv) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

:

(i) A determination may be made by the Director to deny a permit application if the applicant operates other permitted facilities or sources within the state which are in substantial noncompliance as determined by the Director, until such noncompliance is corrected or if the Director determines that a permit that results in compliance with applicable air pollution control standards could not be issued, or if issued, could not be complied with.

~~(2) Air Permits authorizing construction in or near Nonattainment Areas.~~

~~(a) Effective Date. The requirements of this Section shall be effective upon approval by EPA.~~

~~(b) Definitions. For purposes of this Section, the following terms will have the meanings ascribed in this Paragraph:~~

~~1. "Source" shall mean any building structure, installation, article, machine, equipment, device or other contrivance which emits or may emit any air contaminant. A facility is composed of one or more pollutant emitting sources.~~

~~2. "Potential" to emit shall mean the maximum capacity to emit a pollutant under physical and operational design conditions. Any physical or operational limitation on the capacity to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as a part of the design only if the limitation or the effect it would have on emissions is enforceable. Secondary emissions are not calculated in determining the potential to emit.~~

~~3.(i) "Major Facility" shall mean:~~

~~(I) Any source or facility for which the potential emission rate is equal to or greater than 100 tons per year of any pollutant subject to regulation under the Federal Clean Air Act (CAA); or~~

~~(II) Any physical change that would occur at a facility not qualifying under Subdivision 335-3-14-.03 (2)(b)(3)(i)(I) as a major facility, if the change would constitute a major facility by itself.~~

~~(ii) A major facility that is major for volatile organic compounds shall be major for ozone.~~

~~4. "Major Modification" shall mean any physical change in, change in the method of operation of, or addition to a major facility which would result in a~~

~~significant net emissions increase at the facility of any pollutant subject to regulation under the CAA.~~

~~(i) A physical change or a change in method of operation shall not include:~~

~~(I) Routine maintenance, repair, and replacement;~~

~~(II) Use of an alternative fuel or raw material by reason of an order in effect under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;~~

~~(III) Use of an alternative fuel by reason of an order or rule under Section 125 of the CAA;~~

~~(IV) Change in ownership of a source;~~

~~(V) Use of refuse derived fuel generated from municipal solid waste.~~

~~(ii) A change in the method of operation, unless limited by previous permit conditions, shall not include:~~

~~(I) An increase in the production rate, if such increase does not exceed the operating design capacity of the source;~~

~~(II) An increase in the hours of operation;~~

~~(III) Use of an alternative fuel or raw material, if on December 21, 1976, the source was capable of accommodating such fuel or material.~~

~~5. "Allowable Emissions" shall mean the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate, or hours of operation, or both) and the most stringent of the following:~~

~~(i) Applicable New Source Performance Standards set forth in 40 CFR 60;~~

~~(ii) Applicable National Emission Standards for Hazardous Air Pollutants set forth in 40 CFR 61;~~

~~(iii) Applicable State Implementation Plan emission limitation, or~~

~~(iv) The emission rate specified as an enforceable permit condition.~~

~~6. "Lowest Achievable Emission Rate" (LAER) shall mean, for any source, that rate of emissions based on whichever of the following is more stringent:~~

~~(i) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or~~

~~(ii) The most stringent emission limitation which is achieved in practice or can reasonably be expected to occur in practice by such class or category of sources taking into consideration the pollutant which must be controlled,~~

~~(iii) This term, applied to a modification, means the lowest achievable emission rate for the new or modified source within the facility. In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.~~

~~7. Reserved.~~

~~8. Reserved.~~

~~9. "Significant Impact" shall mean:~~

~~(i) For particulate matter and sulfur dioxide, the following significant levels would be exceeded in the portion of the designated nonattainment area where the ambient air quality standards are actually violated.~~

	<del>Annual</del>	<del>24 Hour</del>	<del>3 Hour</del>
<del>Particulate Matter</del>	<del>1 ug/m<sup>3</sup></del>	<del>5 ug/m<sup>3</sup></del>	
<del>Sulfur Dioxide</del>	<del>1 ug/m<sup>3</sup></del>	<del>5 ug/m<sup>3</sup></del>	<del>25 ug/m<sup>3</sup></del>

~~(ii) For volatile organic compounds, any source locating outside the boundaries of a nonattainment area shall not be considered to have a significant impact on the nonattainment area.~~

~~10. (i) "Net Emissions Increase" shall mean the amount by which the sum of the following exceeds zero:~~

~~(I) Any increase in actual emissions from a particular physical change or change in the method of operation, and~~

~~(II) Any other increases and decreases in actual emissions that are contemporaneous with the particular~~



~~change and are otherwise creditable.~~

~~—— (ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:~~

~~—— (I) The date five (5) years before construction on the particular change commences, and~~

~~—— (II) The date that the increase from the particular change occurs.~~

~~—— (iii) An increase or decrease in actual emissions is creditable only if:~~

~~—— (I) It has not been relied on in issuing a permit to the facility which is in effect when the increase in actual emissions from the particular change occurs, and~~

~~—— (II) It occurs after the effective date of this Section.~~

~~—— (iv) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.~~

~~—— (v) A decrease in actual emissions is creditable only to the extent that:~~

~~—— (I) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;~~

~~—— (II) It is enforceable at and after the time that actual construction on the particular change begins;~~

~~—— (III) It has not been relied on in issuing any permit under the State Implementation Plan or in demonstrating attainment or reasonable further progress; and~~

~~—— (IV) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.~~

~~—— (vi) An increase that results from a physical change occurs when the source on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 100 days.~~

~~—— 11. (i) "Significant" shall mean, in reference to a net emissions increase or the potential of a source or facility to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following~~

rates:

~~Pollutant and Emissions Rate (tons per year)~~

~~Carbon monoxide: 100~~

~~Nitrogen oxides: 40~~

~~Sulfur dioxide: 40~~

~~Ozone (volatile organic compounds): 40~~

~~Lead: 0.6~~

~~12. (i) "Actual Emissions" shall mean the actual rate of emissions of a pollutant from a source as determined by Subdivisions (12) (ii) through (iv).~~

~~(ii) In general, actual emissions as of any given date shall equal the average rate in tons per year at which the source actually emitted the pollutant during a two-year period which precedes the given date and which is representative of normal source operation. The use of a different time shall be allowed upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period.~~

~~(iii) The reviewing authority may presume that source-specific allowable emissions for the source are equivalent to the actual emissions of the source.~~

~~(iv) For any source which has not begun normal operations on the given date, actual emissions shall equal the potential to emit of the source on that date.~~

~~13. "Construction" shall mean any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of a source) which would result in a change in actual emissions.~~

~~14. "Commence", as applied to construction of a major facility or major modification, shall mean that the owner or operator has all necessary preconstruction approvals or permits and has either:~~

~~(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or~~

~~(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.~~

~~15. "Necessary Preconstruction Approvals or Permits"~~

~~shall mean those permits or approvals required under the State Implementation Plan.~~

~~16. "Begin Actual Construction" shall mean, in general, initiation of physical on site construction activities including, but not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating, this term refers to those on site activities other than preparatory activities which mark the initiation of the change.~~

~~17. "Adverse Impact on Visibility" shall mean visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case by case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.~~

~~18. "Visibility Impairment" shall mean any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.~~

~~19. "Natural Conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast or coloration.~~

~~20. "Offset ratio" shall mean the ratio of total actual emissions reductions to total allowable emissions increases of such pollutant from the new source.~~

~~(c) Applicability. Except as provided in Paragraphs 335-3-14-.03(2)(d), (e), and (f), no Air Permit shall be issued to a person proposing to construct or make a major modification to a major facility (for the pollutant for which the area has been designated nonattainment) in a nonattainment area or which will have a significant impact if located outside the nonattainment area unless:~~

~~1. The person demonstrates that the new source or the major modification will meet an emission limitation, said emission limitation to be the lowest achievable emission rate (LAER) for that source or facility;~~

~~2. The person certifies that all existing major sources owned or operated by that person (or any entity controlling, controlled by, or under common control with that person) within Alabama are in compliance with applicable emission limits or are on an acceptable schedule;~~

~~3. The person demonstrates that emission reductions from existing source(s) in the area of the proposed source/major modification (whether or not under the same ownership) meet the offset requirements of Paragraph 335-3-14 .03(2)(g);~~

~~4. Reserved;~~

~~(d) Exceptions;~~

~~1. Reserved;~~

~~2. Reserved;~~

~~3.(i) A person proposing to construct or make a major modification to a major facility subject to the provisions of this Section, located in a nonurban nonattainment area (less than 200,000 population), shall be required to install LAER but shall not be required to obtain emission offsets as specified herein.~~

~~(ii) The provisions of Subdivision 335-3-14 .03(2)(d)3.(i) are applicable to volatile organic compound sources only.~~

~~4. Construction of or modification to a major source locating in a nonattainment area which is projected to be attainment as of the startup date of such source shall be exempt from the requirements of this Section.~~

~~5. Reserved;~~

~~(e) Temporary Emissions. The requirements of Subparagraph 335-3-14 .03(2)(c)3. shall not apply to emissions of a particular pollutant if the person applying for an Air Permit under this Section can demonstrate that the emissions of the pollutant are of a temporary nature including but not limited to those from a pilot plant, a portable facility, construction, or exploration; and notice is given to the Director at least thirty (30) days prior to relocation of such source identifying the proposed new location and the probable duration of operation at such location.~~

~~(f) When a facility or modification subject to this Section may impair the visibility of a Federal Class I area, the following procedures shall be followed:~~

~~1. The facility shall provide an analysis of the impairment to visibility that would occur as a result of the facility or modification and general commercial, industrial and other growth associated with the facility or modification.~~

~~2. The Director shall notify all affected Federal Land Managers within 30 days of receipt of any advance notification of a permit application for a proposed major stationary facility or modification, the emissions from which may affect a Class I Area. The Director shall provide written notification to all affected Federal Land Managers within 30 days of receiving the permit application. At least 30 days prior to the publication of the notice for public comment on the application, the Director shall provide the Federal Land Manager with a copy of all information relevant to the permit application including an analysis provided by the facility of the potential impact of the proposed facility on visibility.~~

~~3. The Director shall consider any analysis concerning visibility impairment performed by the Federal Land Manager if the analysis is received within 30 days of being provided the permit application information and analysis required in Subparagraph 335-3-14-.03(2)(f)2. If the Director finds that the analysis of the Federal Land Manager fails to demonstrate to his satisfaction that an adverse impact on visibility will result in the Federal Class I area, the Director shall provide in the notice for public comment on the application, an explanation of his decision or notice as to where the explanation can be obtained.~~

~~4. The Director may require monitoring of visibility in any Class I area near the proposed new facility or modification.~~

~~5. The requirements of this Paragraph shall not apply to a particular major stationary facility or major modification, if the facility or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the Governor of Alabama requests that it be exempt from those requirements;~~

~~(g) Offset Standards.~~

~~1. Increased emissions by a source or facility subject to this Section must be offset by a reduction in the emissions of that pollutant by the source itself or by other sources in the area to the extent necessary to prevent interference with reasonable further progress toward attainment.~~

~~(i) The offset ratio for ozone (marginal) nonattainment areas shall be at least 1.1 to 1.~~

~~(ii) The offset ratio for all other nonattainment areas shall be at least 1.0 to 1.~~

~~2. When a major source or modification, which is~~

~~otherwise subject to the requirements of this Paragraph, will result in a specific and well defined increase in secondary emissions, which can be accurately quantified and which will impact the same nonattainment area, these emissions shall be offset in accordance with the requirements of this Paragraph.~~

~~3. The baseline for determining credit for emission offsets of any source shall be the allowable emissions of said source or the existing emissions of said source, not including any malfunctions, whichever is less.~~

~~4. Reduced allowable emissions from an existing source due to a change to a cleaner fuel may be used to offset emissions from the new source or alteration so long as the change will occur at some future date. Emission reductions from a change of fuel shall not be used to offset emissions if there are not adequate supplies of the new fuel available.~~

~~5. Offsets shall be made on a tons per year basis when all facilities involved in the emission offset calculations are operating at their maximum expected production rate. However, a source may be credited with emission reductions achieved by the shutdown of a source or the curtailment of production of a source below that which existed at the time the application was submitted, provided that the work force to be affected has been notified of the proposed shutdown or curtailment.~~

~~6. All emission reductions used for offsets must be legally enforceable in a manner approved by the Director.~~

~~(h) Reserved.~~

~~(i) Banking of Emission Offsets. Offsets approved after January 16, 1979, which exceed the requirement of reasonable further progress may be "banked" for future use; likewise, reductions in emissions from existing sources which exceed the requirement of reasonable further progress may be "banked" for future use. The banking is subject to the following requirements:~~

~~1. (i) Application shall be made in writing to the Director, describing the emission offsets to be banked, such description to include location, source, and type of emissions.~~

~~(ii) Emission offsets cannot be banked beyond the allowable emissions of said source or the existing emission of said source, not including any malfunctions, whichever is less.~~

~~2. Upon approval by the Director of said application, the banked emissions shall be credited to the facility~~

~~submitting such application.~~

~~3. (i) No emission offsets banked in accordance with the provisions of this Paragraph shall be used unless written notice is provided to the Director thirty (30) days prior to submission of the necessary permit applications, to provide opportunity for review of the proposed use of the banked emission offsets.~~

~~(ii) In the event that a determination is made that the banked emission offsets may not be used for the proposed construction, written notice shall be afforded the applicant, as provided in Section 335-3-14-.02(3), herein.~~

~~4. In the event that a determination under Subdivision 335-3-14-.03(2)(i)3.(ii) is made by the Director, construction may proceed if, and only if, emission offsets are obtained sufficient to satisfy the requirements of Paragraph 335-3-14-.03(2)(g).~~

~~5. Nothing contained in this Paragraph shall prohibit the transfer, assignment, sale, or otherwise complete disposition of said banked emission offsets, provided that written notice is provided to the Director, thirty (30) days prior to such disposition, describing in detail the recipient of the banked emissions.~~

~~(j) Reserved.~~

~~(k) At such time that a particular source or facility or modification becomes a major facility or major modification solely by virtue of a relaxation in any enforceable limitation established after August 7, 1980, on the capacity of the source, facility or modification otherwise to emit a pollutant, then the requirements of this Section shall apply as though construction had not yet commenced.~~

~~(l) The requirements of this Rule shall not apply to a particular major stationary facility or major modification if:~~

~~1. The major facility or major modification was not subject to this Section as in effect on November 26, 1979, or to the Federal Emission Offset Interpretative Ruling as in effect January 18, 1979, if the owner or operator:~~

~~(i) Obtained all necessary preconstruction approval before August 7, 1980;~~

~~(ii) Commenced construction within 18 months from August 7, 1980; and~~

~~(iii) Did not discontinue construction for a period of (18) eighteen months or more and completed construction~~

~~within a reasonable time or~~

~~2. The facility or modification would be a major stationary facility or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary facility or modification and the facility does not belong to any of the following categories:~~

- ~~(i) Coal cleaning plants (with thermal dryers);~~
- ~~(ii) Kraft pulp mills;~~
- ~~(iii) Portland cement plants;~~
- ~~(iv) Primary zinc smelters;~~
- ~~(v) Iron and steel mills;~~
- ~~(vi) Primary aluminum ore reduction plants;~~
- ~~(vii) Primary copper smelters;~~
- ~~(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;~~
- ~~(ix) Hydrofluoric, sulfuric or nitric acid plants;~~
- ~~(x) Petroleum refineries;~~
- ~~(xi) Lime plants;~~
- ~~(xii) Phosphate rock processing plants;~~
- ~~(xiii) Coke oven batteries;~~
- ~~(xiv) Sulfur recovery plants;~~
- ~~(xv) Carbon black plants (furnace process);~~
- ~~(xvi) Primary lead smelters;~~
- ~~(xvii) Fuel conversion plants;~~
- ~~(xviii) Sintering plants;~~
- ~~(xix) Secondary metal production plants;~~
- ~~(xx) Chemical process plants;~~
- ~~(xxi) Fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;~~
- ~~(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;~~
- ~~(xxiii) Taconite ore processing plants;~~
- ~~(xxiv) Glass fiber processing plants;~~
- ~~(xxv) Charcoal production plants;~~
- ~~(xxvi) Any other stationary category which, as of August 7, 1980 is being regulated under Sections 111 or 112 of the Clean Air Act;~~

~~(m) Public Participation:~~

~~1. After receipt of an application to construct or any addition to such application, the Director shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this Rule the date on which the Director received all required information.~~



~~2. Within one (1) year after receipt of a complete application, the Director shall make a final determination of the application. This involves performing the following actions in a timely manner:~~

~~(i) Make a preliminary determination whether construction should be approved, approved with conditions or disapproved.~~

~~(ii) Make available in at least one location in each region in which the proposed facility or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.~~

~~(iii) Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed facility or modification would be constructed, of the application, the preliminary determination, and the opportunity for written public comment, as well as comment at a public hearing.~~

~~(iv) Send a copy of the notice of public comment to the applicant, to EPA and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: any other state or local air pollution control agencies, the chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the facility or modification.~~

~~(v) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the facility or modification, the control technology required, and other appropriate considerations.~~

~~(vi) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Director shall consider the applicant's response in making a final decision. The Director shall make all comments available for public inspection in the same locations where the Director made available preconstruction information relating to the proposed facility or modification.~~

~~(vii) Make a final determination whether construction should be approved, approved with conditions or disapproved~~

~~pursuant to this Section.~~

~~(viii) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Director made available preconstruction information and public comments relating to the facility or modification.~~

~~(3)~~ (2) Stack Heights

(a) Definitions. For purposes of this Section, the following ~~terms will have the meanings ascribed in this Paragraph~~ words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:

1. "Emission limitation" and "emission standard" mean a requirement, established by ADEM or the EPA Administrator, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

2. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

3. "A stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

4. "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(i) Using that portion of a stack which exceeds good engineering practice stack height;

(ii) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(iii) Increasing final exhaust gas plume rise by manipulating source-process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase

the exhaust gas plume rise.

(iv) The preceding sentence does not include:

(I) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(II) The merging of exhaust gas streams where:

I. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams:

II. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

III. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Director shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Director shall deny credit for the effects of such merging in calculating the allowable emissions for the source:

(III) Smoke management in agricultural or silvicultural prescribed burning programs:

(IV) Episodic restrictions on residential woodburning and open burning; or

(V) Techniques under Subdivision ~~335-3-14-.03(3)(a)4.(iii)~~ 335-3-14-.03(2)(a)4.(iii) which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

5. "Good engineering practice" (GEP) stack height means the greater of:

(i) 65 meters measured from the ground-level elevation at the base of the stack:

(ii)(I) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required under 40 CFR 51 and 52, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;

$$H_g = 2.5H.$$

(II) For all other stacks,

$$H_g = H + 1.5 L,$$

where

$H_g$  = good engineering practice stack height measured from the ground-level elevation at the base of the stack,

$H$  = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

$L$  = lesser dimension, height or projected width of nearby structure(s),

provided that the Director may require the use of a field study or fluid model to verify GEP stack height for the source; or

(iii) The height demonstrated by a fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

6. "Nearby" as used in Subparagraph ~~335-3-14-.03(3)(a)5.~~ 335-3-14-.03(2)(a)5. of this Paragraph is defined for a specific structure or terrain feature and

(i) for purposes of applying the formulas provided in Subdivision ~~335-3-14-.03(3)(a)5.~~ 335-3-14-.03(2)(a)5. (ii) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile), and

(ii) for conducting demonstrations under Subdivision ~~335-3-14-.03(3)(a)5.~~ 335-3-14-.03(2)(a)5. (iii) means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height ( $h_t$ ) of the feature, not to exceed 2 miles if such

feature achieves a height ( $h_t$ ) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in Subdivision ~~335-3-14-.03(3)(a)5.(ii)(II)~~ 335-3-14-.03(2)(a)5.(ii)(II) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

7. "Excessive concentration" is defined for the purpose of determining GEP stack height under Subdivision ~~16.3.3(a)(5)(iii)~~ 335-3-14-.03(2)(a)5.(iii) and means:

(i) for sources seeking credit for stack height exceeding that established under Subdivision ~~335-3-14-.03(3)(a)5.(ii)~~ 335-3-14-.03(2)(a)5.(ii), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than a NAAQS. For sources subject to the PSD program (Rule 335-3-14-.04), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emissions rate to be used in making demonstrations under this Rule shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator;

(ii) for sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under Subdivision ~~335-3-14-.03(3)(a)5.(ii)~~ 335-3-14-.03(2)(a)5.(ii), either:

(I) a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects as provided in Subdivision ~~335-3-14-.03(3)(a)7.(i)~~ 335-3-14-.03(2)(a)7.(i), except that the emission rate specified elsewhere in these regulations (or, in the absence of such a limit, the actual emission rate) shall be used, or

(II) the actual presence of a local nuisance caused by the existing stack, as determined by the Director; and

(iii) for sources seeking credit after January 12; 1979, for a stack height determined under Subdivision ~~335-3-14-.03(3)(a)5.(ii)~~ 335-3-14-.03(2)(a)5.(ii) where the Director requires that use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Subdivision ~~335-3-14-.03(3)(a)5.(ii)~~ 335-3-14-.03(2)(a)5.(ii), a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(b) Before acting on any Air Permit, the Director shall require that the degree of emission limitation required of any source for control of any air pollutants shall not be affected by so much of any source's stack height that exceeds GEP or by any other dispersion technique, except as provided in Paragraph ~~335-3-14-.03(3)(c)~~ 335-3-14-.03(2)(c).

(c) The provisions of Paragraph ~~335-3-14-.03(3)(b)~~ 335-3-14-.03(2)(b) shall not apply to stack heights in existence, or dispersion techniques implemented, prior to December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the Clean Air Act, which were constructed, or reconstructed or for which major modifications, as defined pursuant to Subparagraphs ~~335-3-14-.03(2)(b)4.~~ 335-3-14-.05(2)(d) and ~~335-3-14-.03(2)(b)1.~~ 335-3-14-.04(2)(b)1., were carried out after December 31, 1970.

(d) If any existing source, after appropriate application of the preceding limitations and provisions, is found to exceed or potentially exceed a NAAQS or PSD increment, when operating within previously established emission limitations, the emissions limitations applicable to that source shall be modified so as to eliminate and prevent the exceedance.

(e) If any new source or source modification, after appropriate application of the preceding limitations and provisions, is predicted to exceed a NAAQS or PSD increment when evaluated under emission limitations consistent with other applicable rules and regulations, the emission limitations considered shall be deemed inadequate and different emission limits, based on air quality considerations, shall be made applicable.

(f) If any source provides a field study or fluid

modeling demonstration proposing a GEP stack height greater than that allowed by Subdivision ~~335-3-14-.03 (3) (a) 5. (ii)~~ 335-3-14-.03(2) (a) 5. (i) and 335-3-14-.03(2) (a) 5. (ii), then the public will be notified of the availability of the study and provided the opportunity for a public hearing before any new or revised emission limitation or permit is approved.

(g) The actual stack height used or proposed by a source shall not be restricted in any manner by requirements of this Section.

Author: James W. Cooper and John E. Daniel  
Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.  
History: Effective Date: January 18, 1972.  
Amended: April 3, 1979; February 13, 1980; March 24, 1981; March 23, 1982; February 13, 1985; November 13, 1985; September 18, 1986; June 9, 1987; May 4, 1988; September 21, 1989; November 1, 1990; October 30, 1992 .

335-3-14-.04 Air Permits Authorizing Construction in Clean Air Areas (Prevention of Significant Deterioration Permitting (PSD)).

(1) Effective Date. The requirements of this Rule shall be effective upon approval by the Environmental Protection Agency (EPA).

(2) Definitions. For the purposes of this Rule only, the following terms will have meanings ascribed in this Section:

(a)1. "Major Stationary Source" shall mean:

(i) Any of the following stationary sources (see Paragraph 335-3-14-.04(2) (e)) of air pollutants which emits, or has the potential to emit (see Paragraph 335-3-14-.04(2) (d)), 100 tons per year or more of any pollutant subject to regulation under the CAA, as amended, 42 U.S.C. 7401, et seq.: fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; coal cleaning plants (with thermal dryers); kraft pulp mills; portland cement plants; primary zinc smelters; iron and steel mill plants; primary aluminum ore reduction plants; primary copper smelters; municipal incinerators capable of charging more than 250 tons of refuse per day; hydrofluoric, sulfuric and nitric acid plants; petroleum refineries; lime plants; phosphate rock processing plants; coke oven batteries; sulfur recovery plants; carbon black plants (furnace process); primary lead smelters; fuel conversion plants; sintering plants; secondary metal production plants; chemical process plants; fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input;

petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels; taconite ore processing plants; glass fiber processing plants; and charcoal production plants;

(ii) Notwithstanding the stationary source size specified in Subdivision 335-3-14-.04(2)(a)(1)(i), any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the CAA; or

(iii) Any physical change that would occur at a stationary source not otherwise qualifying under Rule (a) as a major stationary source, if the changes would constitute a major stationary source by itself.

2. A stationary source that is considered major for VOC shall be considered major for ozone.

(b)1. "Major Modification" shall mean any physical change in or change in the method of operation of a major stationary source that would result in a significant (see Paragraph 335-3-14-.04(2)(w)) net emissions increase (see Paragraph 335-3-14-.04(2)(c)) of any pollutant subject to regulation under the CAA.

2. Any net emissions increase that is significant for VOC shall be considered significant for ozone.

3. A physical change or change in the method of operation shall not include:

(i) Routine maintenance, repair and replacement;

(ii) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (P.L. 93-319, 15 U.S.C. 791 note) or any superseding legislation, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act (June 10, 1920, P.L. 280, 16 U.S.C. 791a);

(iii) Use of an alternative fuel by reason of an order or rule under Section 125 of the CAA;

(iv) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) Use of an alternative fuel or raw material by a stationary source which:

(I) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition which was



established after January 6, 1975.

(II) The source is approved to use under any permit issued under the Federal Prevention of Significant Deterioration ("PSD") regulations (40 CFR 52.21) or under regulations of this Rule;

(vi) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit condition which was established after January 6, 1975.

(vii) Any change in ownership at a stationary source.

(c)1. "Net Emissions Increase" shall mean the amount by which the sum of the following exceeds zero:

(i) Any increase in actual emissions (see Paragraph 335-3-14-.04(2)(u)) from a particular physical change or change in method of operation at a stationary source; and

(ii) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

2. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(i) The date five (5) years before construction (see Paragraph 335-3-14-.04(2)(h)) on the particular change commences (see Paragraph 335-3-14-.04(2)(i)); and

(ii) The date that the increase from the particular change occurs.

3. An increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit for the source under this Rule, which is in effect when the increase in actual emissions from the particular change occurs.

4. An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date (see Paragraph 335-3-14-.04(2)(n)2.) is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

5. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

6. A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions (see Paragraph 335-3-14-.04(2)(p)), whichever is lower, exceeds the new level of actual emissions;

(ii) It is enforceable (see Paragraph 335-3-14-.04(2)(q)) at and after the time that actual construction on the particular change begins; and

(iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

7. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(d) "Potential To Emit" shall mean the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions (see Paragraph 335-3-14-.04(2)(r)) do not count in determining the potential to emit of a stationary source.

(e) "Stationary Source" shall mean any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the CAA.

(f) "Building, Structure, Facility, or Installation" shall mean all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same first two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

(g) "Emissions Unit" shall mean any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the CAA.

(h) "Construction" shall mean any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(i) "Commence" as applied to construction of a major stationary source or major modification shall mean that the owner or operator has all necessary preconstruction approvals or permits (see Paragraph 335-3-14-.04(2)(j)) and either has:

1. Begun, or caused to begin, a continuous program of actual on-site construction (see Paragraph 335-3-14-.04(2)(k)) of the source, to be completed within a reasonable time; or

2. Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(j) "Necessary Preconstruction Approvals or Permits" shall mean those permits or approvals required under Alabama air quality control laws and regulations which are part of the State Implementation Plan.

(k) "Begin Actual Construction" shall mean, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(l) "Best Available Control Technology (BACT)" shall mean an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under the CAA which would be emitted from any proposed major stationary source or major modification which the Director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR 60 and 61. If the Director determines that technological

or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results.

(m)1. "Baseline Concentration" shall mean that ambient concentration level which exists in the baseline area (see Paragraph 335-3-14-.04(2)(o)) at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) The actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in Subparagraph 335-3-14-.04(2)(m)2.;

(ii) The allowable emissions of major stationary sources which commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

2. The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) Actual emissions from any major stationary source on which construction commenced after the major source baseline date; and

(ii) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

(n)1. "Major Source Baseline Date" means:

(i) In the case of particulate matter and sulfur dioxide, January 6, 1975, and

(ii) In the case of nitrogen dioxide, February 8, 1988.

2. "Minor Source Baseline Date" means the earliest date after the trigger date on which the first complete (see Paragraph 335-3-14-.04(2)(v)) application is submitted by a major stationary source or major modification subject to the requirements of Federal PSD regulations or this Part. The trigger date is:

(i) In the case of particulate matter and sulfur oxides, August 7, 1977, and

(ii) In the case of nitrogen dioxide, February 8, 1988.

3. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(i) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d)(1) (D) or (E) of the CAA for the pollutant on the date of its complete application under Federal PSD regulations or this Rule.

(ii) In the case of a major stationary source, the pollutant would be emitted in significant amounts or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(o) "Baseline Area" shall mean any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1) (D) or (E) of the CAA in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than one (1) microgram per cubic meter (annual average) of the pollutant for which the minor source baseline date is established.

(p) "Allowable Emissions" shall mean the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

1. The applicable standards as set forth in 40 CFR 60 and 61;

2. The applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

3. The emissions rate specified as an enforceable permit condition, including those with a future compliance date.

(q) "Enforceable" shall mean all limitations and conditions which are enforceable, including those requirements developed pursuant to 40 CFR 60 and 61, requirements within the State Implementation Plan and any permit requirements established pursuant to 40 CFR 51.18, 40 CFR 52.21 or this Chapter.

(r) "Secondary Emissions" shall mean emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this Rule, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

1. Emissions from ships or trains coming to or from the new or modified stationary source; and

2. Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(s) "Innovative Control Technology" shall mean any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

(t) "Fugitive Emissions" shall mean those emissions which could not reasonably pass through a stack, chimney, vent, roof monitor, or other functionally equivalent opening.

(u)1. "Actual Emissions" shall mean the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with Subparagraphs 335-3-14-.04(2)(u)(2) through (u)(4) below.

2. In general, actual emissions as of any given date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the given data and which is representative of normal source operation. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

3. The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

4. For any emissions unit which has not begun normal

operations on the given date as determined in Subparagraph 335-3-14-.04(2)(u)2., actual emissions shall equal the potential to emit of the unit on that date.

(v) "Complete" shall mean, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(w)1. "Significant" shall mean, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate  
(tons per year)

Carbon monoxide.....	100
Nitrogen oxides.....	40
Sulfur dioxide.....	40
Particulate matter.....	25
PM10.....	15
Ozone.....	40 (of VOC)
Lead.....	0.6
<del>Asbestos.....</del>	<del>0.007</del>
<del>Beryllium.....</del>	<del>0.0004</del>
<del>Mercury.....</del>	<del>0.1</del>
<del>Vinyl chloride.....</del>	<del>1</del>
Fluorides.....	3
Sulfuric acid mist.....	7
Hydrogen sulfide (H <sub>2</sub> S).....	10
Total reduced sulfur (including H <sub>2</sub> S)....	10
<del>Reduced sulfur compound (including H<sub>2</sub>S)....</del>	<del>10</del>
<del>Arsenic.....</del>	<del>0.044</del>
<del>Benzene.....</del>	<del>0.110</del>

2. Reserved.

3. Notwithstanding Subparagraph 335-3-14-.04(2)(w)1., significant shall mean any emissions rate or any net emissions increase associated with a major stationary source or major modification which would construct within ten (10) kilometers of a Class I area and have an impact on such area equal to or greater than one (1) microgram per cubic meter (24-hour average).

(x) "Federal Land Manager" shall mean, with respect to any lands in the United States, the Secretary of the Department with authority over such lands.

(y) "High Terrain" shall mean any area having an elevation 900 feet or more above the base of the stack of a source.

(z) "Low Terrain" shall mean any area other than high

terrain.

(aa) "Indian Governing Body" shall mean the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(bb) "Indian Reservation" shall mean any Federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(cc) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.

(dd) "Visibility impairment" means any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

(ee) "Natural conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(3) Ambient Air Increments. In areas designated as Class I, II or III, increases in pollutant concentration over the baseline shall be limited to the following:

Maximum Allowable Increase  
(micrograms per cubic meter)

Class I

Pollutant

Total suspended particulates:

Annual geometric mean.....	5
24-hour maximum.....	10

Sulfur dioxide:

Annual arithmetic mean.....	2
24-hour maximum.....	5
3-hour maximum.....	25

Nitrogen dioxide:



Annual arithmetic mean..... 2.5

Class II

Total suspended particulates:

Annual geometric mean..... 19  
24-hour maximum..... 37

Sulfur dioxide:

Annual arithmetic mean..... 20  
24-hour maximum..... 91  
3-hour maximum..... 512

Nitrogen dioxide:

Annual arithmetic mean..... 25

Class III

Total suspended particulates:

Annual geometric mean..... 37  
24-hour maximum..... 75

Sulfur dioxide:

Annual arithmetic mean..... 40  
24-hour maximum..... 182  
3-hour maximum..... 700

Nitrogen dioxide:

Annual arithmetic mean..... 50

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

(4) Ambient Air Ceilings. No concentration of a pollutant shall exceed:

(a) The concentration permitted under the National Secondary Ambient Air Quality Standard, or

(b) The concentration permitted under the National Primary Ambient Air Quality Standard, whichever concentration is lowest for the pollutant for a period of exposure.

(5) Area Classifications.

(a) The following area, which was in existence on August 7, 1977, shall be a Class I area and may not be redesignated:

The Sipsey Wilderness Area, located in Franklin, Winston, and Lawrence counties, Alabama.

(b) Any other area is initially designated Class II:

(6) Exclusions from Increment Consumption.

(a) The following concentrations shall be excluded in determining compliance with a maximum allowable increase:

1. Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order;

2. Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

3. Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

4. The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and

5. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen oxides from stationary sources which are affected by plan revisions approved by the EPA as being exempt from increment consumption.

(b) No exclusion of such concentrations shall apply for more than five (5) years after the effective date of the order to which Paragraph 335-3-14-.04(6)(a)1. or the plan to which Paragraph 335-3-14-.04(6)(a)2. refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply for more than five (5) years after the later of such effective dates.

(7) Reserved.

(8) Review of Major Stationary Sources and Major Modification - Source Applicability and Exemptions.

(a) No major stationary source or major modification shall begin actual construction unless, as a minimum, requirements contained in Sections 335-3-14-.04(9) through 335-3-14-.04(17) of this Rule have been met.

(b) The requirements contained in Sections 335-3-14-.04(9) through 335-3-14-.04(17) shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under the CAA that it would emit, except as this Section would otherwise allow.

(c) The requirements contained in Sections 335-3-14-.04(9) through 335-3-14-.04(17) apply only to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassified under Section 107(d)(1) (D) or (E) of the CAA.

(d) The requirements contained in Sections 335-3-14-.04(9) through 335-3-14-.04(17) shall not apply to a major stationary source or major modification, if:

1. Reserved.
2. Reserved.
3. Reserved.
4. Reserved.
5. Reserved.
6. The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution; or
7. The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification, and the source does not belong to any of the following categories:
  - (i) Coal cleaning plants (with thermal dryers);
  - (ii) Kraft pulp mills;
  - (iii) Portland cement plants;
  - (iv) Primary zinc smelters;
  - (v) Iron and steel mills;
  - (vi) Primary aluminum ore reduction plants;
  - (vii) Primary copper smelters;
  - (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;

- (ix) Hydrofluoric, sulfuric or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
- (xxvii) Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the CAA; or

8. The source is a portable stationary source which has previously received a permit under this Rule; and

(i) The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary; and

(ii) The emissions from the source would not exceed its allowable emissions; and

(iii) The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

(iv) Reasonable notice is given to the Director prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the Director not less than ten (10) days in advance of the proposed relocation unless a different time duration is previously approved by the Director.

(e) The requirements of Sections 335-3-14-.04(9) through 335-3-14-.04(17) shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is

located in an area designated as nonattainment under Section 107 of the CAA.

(f) The requirements of Sections 335-3-14-.04(10), 335-3-14-.04(12), and 335-3-14-.04(14) shall not apply to a major stationary source or major modification with respect to a particular pollutant if the allowable emissions of that pollutant from the source or the net emissions increase of that pollutant from the modification:

1. Would impact no Class I area and no area where an applicable increment is known to be violated, and

2. Would be temporary.

(g) The requirements of Sections 335-3-14-.04(10), 335-3-14-.04(12), and 335-3-14-.04(14) as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each pollutant subject to regulation under the CAA from the modification after the application of BACT would be less than 50 tons per year.

(h) The Director may exempt a stationary source or modification from the requirements of Section 1335-3-14-.04(12) with respect to monitoring for a particular pollutant if:

1. The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts which are less than the following amounts:

Carbon monoxide - 575 ug/m<sup>3</sup>, 8-hour average;  
Nitrogen dioxide - 14 ug/m<sup>3</sup>, annual average;  
Total suspended particulate - 10 ug/m<sup>3</sup>,  
24-hour average;  
PM<sub>10</sub> - 10 ug/m<sup>3</sup>, 24-hour average  
Sulfur dioxide - 13 ug/m<sup>3</sup>, 24-hour average;  
Ozone;<sup>1</sup>  
Lead - 0.1 ug/m<sup>3</sup>, 3-month average;  
~~Mercury - 0.25 ug/m<sup>3</sup>, 24-hour average;~~  
~~Beryllium - 0.001 ug/m<sup>3</sup>, 24-hour average;~~  
Fluorides - 0.25 ug/m<sup>3</sup>, 24-hour average;  
~~Vinyl chloride - 15 ug/m<sup>3</sup>, 24-hour average;~~  
Total reduced sulfur - 10 ug/m<sup>3</sup>, 1-hour average;  
Hydrogen sulfide - 0.2 ug/m<sup>3</sup>, 1-hour average;  
~~Reduced sulfur compounds - 10 ug/m<sup>3</sup>, 1-hour average;~~  
or

<sup>1</sup>No de minimus air quality level is provided for ozone. However, any net increase of 100 tons per year or more of VOC subject to Rule 335-3-14-.04 would be required to perform an ambient impact analysis including the gathering of ambient air quality data.

2. The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in Subparagraph 335-3-14-.04(8)(h)1., or the pollutant is not listed in Subparagraph 335-3-14-.04(8)(h)1.

3. The owner or operator of the stationary source or modification submits an application under this Section that the Director determines is complete, except with respect to the requirements for monitoring PM<sub>10</sub> in Section 335-3-14-.04(12), on or before June 1, 1988. If a complete permit application is received after June 1, 1988, but not later than December 1, 1988, the requirements for PM<sub>10</sub> monitoring under Section 335-3-14-.04(12) apply in that data shall have been gathered over at least the period from February 1, 1988 to the date the complete application is received, except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four months) then the shorter period of data gathering will suffice to meet the requirements of Section 335-3-14-.04(12).

(i) Reserved.

(j) Reserved.

(k) At the discretion of the Director, the requirements for air quality monitoring of PM<sub>10</sub> in Subparagraphs 335-3-14-.04(12)(a)1. through 4. may not apply to a particular source or modification when the owner or operator of the source or modification submits an application for a permit under this Rule on or before June 1, 1988 and the Director subsequently determines that the application as submitted before that date was complete, except with respect to the requirements for monitoring PM<sub>10</sub> in Subparagraphs 335-3-14-.04(12)(a)1. through 4.

(l) The requirements for air quality monitoring of PM<sub>10</sub> in Subparagraphs 335-3-14-.04(12)(a)2. and 4. and Paragraph 335-3-14-.04(12)(c) shall apply to a particular source or modification if the owner or operator of the source of modification submits an application for permit under this Rule after June 1, 1988 and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988 to the date the application becomes otherwise complete in accordance with the provisions set forth under Subparagraph 335-3-14-.04(12)(a)8., except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data that Subparagraph 335-3-14-.04(12)(a)3. requires shall have been gathered over that shorter period.

(9) Control Technology Review.

(a) A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable limitation standard and standard of performance under 40 CFR 60 and 61.

(b) A new major stationary source shall apply BACT for each pollutant subject to regulation under the CAA that it would have the potential to emit in significant amounts.

(c) A major modification shall apply BACT for each pollutant subject to regulation under the CAA for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(d) For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than eighteen (18) months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.

(10) Source Impact Analysis. The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

(a) Any National Ambient Air Quality Standard in any air quality control region; or

(b) Any applicable maximum allowable increase over the baseline concentration in any area.

(11) Air Quality Models.

(a) All estimates of ambient concentrations required under this Section shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models". (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711)

(12) Air Quality Analysis.

(a) Preapplication Analysis.

1. Any application for a permit under this Rule shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

(i) For the source, each pollutant that it would have the potential to emit in a significant amount;

(ii) For the modification, each pollutant for which it would result in a significant net emissions increase.

2. With respect to any such pollutant for which no NAAQS exists, the analysis shall contain such air quality monitoring data as the Director determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

3. With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

4. In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one (1) year and shall represent the year preceding receipt of the application, except that, if the Director determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year (but not to be less than four (4) months), the data that is required shall have been gathered over at least that shorter period.

5. Reserved.

6. The owner or operator of a proposed stationary source or modification of VOC who satisfies all conditions of Section ~~335-3-14-.03(2)~~ 335-3-14-.05 may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under Paragraph 335-3-14-.04(12)(a).

7. For any application that becomes complete, except as the requirements of Subparagraph 335-3-14-.04(12)(a)3. and 4. pertaining to PM<sub>10</sub>, after December 1, 1988 and no later than August 1, 1989 the data that Subparagraph 335-3-14-.04(12)(a)3. requires shall have been gathered over at least the period from August 1, 1988 to the date the application becomes otherwise complete, except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter



period (not to be less than 4 months), the data that Subparagraph 335-3-14-.04(12)(a)3. requires shall have been gathered over that shorter period.

8. With respect to any requirements for air quality monitoring of PM<sub>10</sub> under Paragraphs 335-3-14-.04(8)(k) and (1), the owner or operator of the source or modification shall use a monitoring method approved by the Director and shall estimate the ambient concentrations of PM<sub>10</sub> using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Director.

(b) Post-construction Monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the Director determines is necessary to determine the impact for said source or modification may have, or is having, on air quality in any area.

(c) Operations of Monitoring Stations. The owner or operator of a major stationary source or major modification shall meet Federal monitoring quality assurance requirements during the operation of monitoring stations for purposes of satisfying Section 335-3-14-.04(12).

(d) Visibility monitoring. The Director may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the Director deems necessary and appropriate.

(13) Source Information. The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or to make any determination required under this Rule.

(a) With respect to a source or modification to which Sections 335-3-14-.04(9), 335-3-14-.04(10), 335-3-14-.04(12), and 335-3-14-.04(14) apply, such information shall include:

1. A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

2. A detailed schedule for construction of the source or modification;

3. A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates and any other information necessary to determine that BACT would be applied.

(b) Upon request of the Director, the owner or operator shall also provide information on:

1. The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

2. The air quality impacts and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

(14) Additional Impact Analyses.

(a) The owner or operator shall provide an analysis of the impact on visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(b) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

(15) Sources Impacting Federal Class I Areas - Additional Requirements.

(a) Notice to Federal Land Managers and to EPA. The Director shall provide notice of any permit application for a proposed major stationary source or major modification the emissions from which would affect a Class I area to EPA, the Federal Land Manager and the Federal official charged with direct responsibility for management of any lands within any such area. The Director shall provide such notice promptly after receiving the application. The Director shall also provide EPA, the Federal Land Manager and such Federal officials with notice of every action related to the consideration of such permit.

(b) The Director shall notify all affected Federal Land Managers within 30 days of receipt of an advance notification of any permit application for a proposed major stationary source or modification, the emissions from which may affect a Class I Area. The Director shall provide written notification to all affected Federal Land Managers within 30 days of receiving the permit application. At least 30 days prior to the publication of the notice for public comment on the application, the Director shall provide the Federal Land Manager with a copy of all information relevant to the permit application including an

analysis provided by the source of the potential impact of the proposed source on visibility.

(c) Visibility analysis. The Director shall consider any analysis performed by the Federal Land Manager concerning visibility impairment if the analysis is received within 30 days of being provided the permit application information and analysis required by Paragraph 335-3-14-.04(15)(b). Where the Director finds that such an analysis does not demonstrate to the satisfaction of the Director that an adverse impact on visibility will result in the Federal Class I area, the Director must, in the notice of public comment on the permit application, either explain his decision or give notice as to where the explanation can be obtained.

(d) Denial - Impact on Air Quality Related Values. The Federal Land Manager of any such lands may demonstrate to the Director that the emissions from a proposed source or modification would have an adverse impact on the air quality related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Director concurs with such demonstration, then he shall not issue the permit.

(e) Class I Variances. The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and he so certifies, the Director may issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide, and particulate matter, and nitrogen oxides would not exceed the following maximum allowable increases over baseline concentration for such pollutants:

Maximum Allowable Increase  
(micrograms per cubic meter)

Total suspended particulates:

Annual geometric mean.....	19
24-hour maximum.....	37

Sulfur dioxide:

Annual arithmetic mean.....	20
24-hour maximum.....	91

3-hour maximum..... 325

Nitrogen dioxide:

Annual arithmetic mean..... 25

provided, that the applicable requirements of this Rule are otherwise met.

(f) Sulfur Dioxide Variance by Governor with Federal Land Manager's Concurrence. The owner or operator of a proposed source or modification which cannot be approved under Paragraph 335-3-14-.04(15)(c) may demonstrate to the Governor that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four (24) hours or less applicable to any Class I area and, in the case of Federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the Director shall issue a permit to such source or modification pursuant to the requirements of Paragraph 335-3-14-.04(15)(f): provided, that the applicable requirements of this Rule are otherwise met.

(g) Variance by the Governor with the President's Concurrence. In any case where the Governor recommends a variance in which the Federal Land Manager does not concur, the recommendations of the Governor and Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if he finds that the variance is in the national interest. If the variance is approved, the Director shall issue a permit pursuant to the requirements of Paragraph 335-3-14-.04(15)(f): provided, that the applicable requirements of this Rule are otherwise met.

(h) Emission Limitations for Presidential or Gubernatorial Variance. In the case of a permit issued pursuant to Paragraphs 335-3-14-.04(15)(d) or (e), the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual

period:

Maximum Allowable Increase  
(micrograms per cubic meter)

Period of exposure	Terrain areas	
	Low	High
24-hour maximum.....	36	62
3-hour maximum.....	130	221

(16) Public Participation.

(a) After receipt of an application for an Air Permit or any addition to such application, the Director shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this Rule, the date on which the Director received all required information.

(b) Within one (1) year after receipt of a complete application, the Director shall make a final determination of the application. This involves performing the following actions in a timely manner:

1. Make a preliminary determination whether construction should be approved, approved with conditions or disapproved.

2. Make available in at least one location in each region in which the proposed source or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.

3. Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source or modification would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for written public comment, as well as comment at a public hearing.

4. Send a copy of the notice of public comment to the applicant, to EPA and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: any other State or local air pollution control agencies, the chief executives

of the city and county where the source or modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification.

5. Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.

6. Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Director shall consider the applicant's response in making a final decision. The Director shall make all comments available for public inspection in the same locations where the Director made available preconstruction information relating to the proposed source or modification.

7. Make a final determination whether construction should be approved, approved with conditions or disapproved pursuant to this Rule.

8. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Director made available preconstruction information and public comments relating to the source or modification.

(17) Source Obligation.

(a) An Air Permit authorizing construction shall become invalid if construction is not commenced within twenty-four (24) months after receipt of such approval, if construction is discontinued for a period of twenty-four (24) months or more, or if construction is not completed within a reasonable time. The Director may extend the twenty-four (24) month period upon satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within twenty-four (24) months of the projected and approved commencement date.

(b) An Air Permit authorizing construction shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local,

State or Federal law.

(c) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Sections 335-3-14-.04(9) through 335-3-14-.04(17) shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(18) Innovative Control Technology.

(a) An owner or operator of a proposed major stationary source or major modification may request the Director in writing no later than the close of the comment period under Section 335-3-14-.04(16) to approve a system of innovative control technology.

(b) The Director shall determine that the source or modification may employ a system of innovative control technology, if:

1. The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function;

2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Paragraph by a date 335-3-14-.04(9)(b) specified by the Director. Such date shall not be later than four (4) years from the time of startup or seven (7) years from permit issuance;

3. The source or modification would meet the requirements of Sections 335-3-14-.04(9) and (10) based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Director;

4. The source or modification would not before the date specified by the Director:

(i) Cause or contribute to a violation of an applicable National Ambient Air Quality Standard; or

(ii) Impact any Class I area; or

(iii) Impact any area where an applicable increment is known to be violated; and

5. The consent of the Governor of any other affected state is secured;

6. All other applicable requirements including those for public participation have been met.

(c) The Director shall withdraw any approval to employ a system of innovative control technology made under this Section, if:

1. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or

3. The Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety.

(d) If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with Paragraph 335-3-14-.04(18)(c), the Director may allow the source or modification up to an additional three (3) years to meet the requirement for the application of BACT through use of a demonstrated system of control.

(19) Permit Rescission.

(a) Any owner or operator of a stationary source or modification who holds a permit for the source or modification which was issued under Rule 335-3-14-.04 as in effect on July 30, 1987 or any earlier version of this Rule, may request that the Director rescind the permit or a particular portion of the permit.

(b) The Director shall grant an application for rescission if the application shows that this Rule would not apply to the source or modification.

(c) If the Director rescinds a permit under this Section, the public shall be given adequate notice of the rescission. Publication of an announcement of rescission in a newspaper of general circulation in the affected region within sixty (60) days of the rescission shall be considered adequate notice.

Author: Marilyn G. Elliott

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: December 10, 1981.

Amended: February 13, 1985; November 13, 1985; November 1, 1990.



~~(1) Definitions. For purposes of this Section, the following terms will have the meanings ascribed in this Paragraph:~~

~~(a) "major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person or persons under common control belonging to a single major industrial grouping) that is characterized by any of the following categories:~~

~~1. emits or has the potential to emit 10 tons per year or more of any hazardous air pollutant which has been listed in section 112(b) in the Clean Air Act (except radionuclides) or 25 tons per year or more of any combination of such hazardous air pollutants. Emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources for hazardous air pollutants.~~

~~2. emits or has the potential to emit 100 tons per year or more of any regulated pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source unless the source belongs to one of the following categories of stationary source:~~

- ~~(i) Coal cleaning plants (with thermal dryers)~~
- ~~(ii) Kraft pulp mills~~
- ~~(iii) Portland cement plants~~
- ~~(iv) Primary zinc smelters~~
- ~~(v) Iron and steel mills~~
- ~~(vi) Primary aluminum ore reduction plants~~
- ~~(vii) Primary copper smelters~~
- ~~(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day.~~
- ~~(ix) Hydrofluoric, sulfuric, or nitric acid plants~~
- ~~(x) Petroleum refineries~~
- ~~(xi) Lime plants~~
- ~~(xii) Phosphate rock processing plants~~
- ~~(xiii) Coke oven batteries~~
- ~~(xiv) Sulfur recovery plants~~
- ~~(xv) Carbon black plants~~
- ~~(xvi) Primary lead smelters~~
- ~~(xvii) Fuel conversion plants~~
- ~~(xviii) Sintering plants~~
- ~~(xix) Secondary metal production plants~~
- ~~(xx) Chemical process plants~~
- ~~(xxi) Fossil fuel boilers (or combination thereof) totaling more than 250 million British~~

~~thermal units per hour heat input~~  
~~(xxii) Petroleum storage and transfer units with a~~  
~~total storage capacity exceeding 300,000~~  
~~barrels.~~  
~~(xxiii) Taconite ore processing plants.~~  
~~(xxiv) Glass fiber processing plants.~~  
~~(xxv) Charcoal production plants~~  
~~(xxvi) Fossil fuel fired steam electric plants of~~  
~~more than 250 million British thermal~~  
~~units per hour of heat input~~  
~~(xxvii) All other stationary source categories~~  
~~regulated under sections 111 or 112~~  
~~of the Clean Air Act.~~

~~(2) Any person who owns or operates a major source~~  
~~shall submit a permit application within one year of EPA~~  
~~approval of the Department's operating permit program as~~  
~~required by Title V of the Clean Air Act Amendments of 1990~~  
~~or by November 15, 1995, whichever occurs first.~~

~~(3) On or before November 15, 1997, all major sources~~  
~~are required to have an operating permit.~~

~~(4) The director shall deny an operating permit if~~  
~~the applicant does not show that every article, machine,~~  
~~equipment, or other contrivance, those of which may cause~~  
~~the issuance of air contaminants, is so designed,~~  
~~controlled, or equipped with air pollution control~~  
~~equipment, that it may be expected to operate without~~  
~~emitting or without causing to be emitted air contaminants~~  
~~in violation of these rules and regulations.~~

~~(5) Operating permits shall be issued for a fixed~~  
~~term of 5 years.~~

~~Author: Richard E. Grusnick~~

~~Statutory Authority: Code of Alabama 1975, §§ 22-28-14,~~  
~~22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.~~

~~History: Effective Date: December 19, 1991.~~

~~Amended:~~

335-3-14-.05 Air Permits authorizing construction in or  
near Nonattainment Areas.

(1) Effective Date. The requirements of this Rule  
shall be effective upon approval by EPA.

(2) Definitions. For purposes of this Rule, the  
following terms will have the meanings ascribed in this  
Paragraph:

(a). "Source" shall mean any building structure,  
installation, article, machine, equipment, device or other  
contrivance which emits or may emit any air contaminant. A  
facility is composed of one or more pollutant-emitting

sources.

(b). "Potential to Emit" shall mean the maximum capacity to emit a pollutant under physical and operational design conditions. Any physical or operational limitation on the capacity to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as a part of the design only if the limitation or the effect it would have on emissions is enforceable. Secondary emissions are not calculated in determining the potential to emit.

(c).1 "Major Facility" shall mean:

(i) Any source or facility for which the potential emission rate is equal to or greater than 100 tons per year of any pollutant subject to regulation under the Federal Clean Air Act (CAA); or

(ii) Any physical change that would occur at a facility not qualifying under Subdivision 335-3-14-.05(2)(c)(1)(i) as a major facility, if the change would constitute a major facility by itself.

2 A major facility that is major for volatile organic compounds shall be major for ozone.

(d) "Major Modification" shall mean any physical change in, change in the method of operation of, or addition to a major facility which would result in a significant net emissions increase at the facility of any pollutant subject to regulation under the CAA.

1. A physical change or a change in method of operation shall not include:

(i) Routine maintenance, repair, and replacement;

(ii) Use of an alternative fuel or raw material by reason of an order in effect under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

(iii) Use of an alternative fuel by reason of an order or rule under Section 125 of the CAA;

(iv) Change in ownership of a source;

(v) Use of refuse derived fuel generated from municipal solid waste.

2. A change in the method of operation, unless

limited by previous permit conditions, shall not include:

(i) An increase in the production rate, if such increase does not exceed the operating design capacity of the source:

(ii) An increase in the hours of operation:

(iii) Use of an alternative fuel or raw material, if on December 21, 1976, the source was capable of accommodating such fuel or material.

(e) "Allowable Emissions" shall mean the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate, or hours of operation, or both) and the most stringent of the following:

1. Applicable New Source Performance Standards set forth in 40 CFR 60.

2. Applicable National Emission Standards for Hazardous Air Pollutants set forth in 40 CFR 61.

3. Applicable State Implementation Plan emission limitation, or

4. The emission rate specified as an enforceable permit condition.

(f) "Lowest Achievable Emission Rate" (LAER) shall mean, for any source, that rate of emissions based on whichever of the following is more stringent:

1. The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

2. The most stringent emission limitation which is achieved in practice or can reasonably be expected to occur in practice by such class or category of sources taking into consideration the pollutant which must be controlled.

3. This term, applied to a modification, means the lowest achievable emission rate for the new or modified source within the facility. In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

(g) Reserved.

(h) Reserved.

      (i) "Significant Impact" shall mean:

      1. For particulate matter and sulfur dioxide, the following significant levels would be exceeded in the portion of the designated nonattainment area where the ambient air quality standards are actually violated.

	<u>Annual</u>	<u>24-Hour</u>	<u>3-Hour</u>
<u>Particulate Matter</u>	<u>1 ug/m<sup>3</sup></u>	<u>5 ug/m<sup>3</sup></u>	
<u>Sulfur Dioxide</u>	<u>1 ug/m<sup>3</sup></u>	<u>5 ug/m<sup>3</sup></u>	<u>25 ug/m<sup>3</sup></u>

      2. For volatile organic compounds, any source locating outside the boundaries of a nonattainment area shall not be considered to have a significant impact on the nonattainment area.

      (j) "Net Emissions Increase" shall mean

      1. The amount by which the sum of the following exceeds zero:

      (i) Any increase in actual emissions from a particular physical change or change in the method of operation, and

      (ii) Any other increases and decreases in actual emissions that are contemporaneous with the particular change and are otherwise creditable.

      2. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

      (i) The date five (5) years before construction on the particular change commences, and

      (ii) The date that the increase from the particular change occurs.

      3. An increase or decrease in actual emissions is creditable only if:

      (i) It has not been relied on in issuing a permit to the facility which is in effect when the increase in actual emissions from the particular change occurs, and

      (ii) It occurs after the effective date of this Section.

      4. An increase in actual emissions is creditable only

to the extent that the new level of actual emissions exceeds the old level.

5. A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) It is enforceable at and after the time that actual construction on the particular change begins;

(iii) It has not been relied on in issuing any permit under the State Implementation Plan or in demonstrating attainment or reasonable further progress; and

(iv) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

6. An increase that results from a physical change occurs when the source on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(k) "Significant" shall mean, in reference to a net emissions increase or the potential of a source or facility to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

<u>Pollutant and Emissions Rate (tons per year)</u>	
<u>Carbon monoxide:</u>	<u>100</u>
<u>Nitrogen oxides:</u>	<u>40</u>
<u>Sulfur dioxide:</u>	<u>40</u>
<u>Ozone (volatile organic compounds):</u>	<u>40</u>
<u>Lead:</u>	<u>0.6</u>

(1)1. "Actual Emissions" shall mean the actual rate of emissions of a pollutant from a source as determined by Subdivisions (1)2. through 4.

2. In general, actual emissions as of any given date shall equal the average rate in tons per year at which the source actually emitted the pollutant during a two-year period which precedes the given date and which is representative of normal source operation. The use of a different time shall be allowed upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the sources's actual operating hours, production rates, and types of

materials processed, stored or combusted during the selected time period.

3. The reviewing authority may presume that source-specific allowable emissions for the source are equivalent to the actual emissions of the source.

4. For any source which has not begun normal operations on the given date, actual emissions shall equal the potential to emit of the source on that date.

(m) "Construction" shall mean any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of a source) which would result in a change in actual emissions.

(n) "Commence", as applied to construction of a major facility or major modification, shall mean that the owner or operator has all necessary preconstruction approvals or permits and has either:

1. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

2. Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(o) "Necessary Preconstruction Approvals or Permits" shall mean those permits or approvals required under the State Implementation Plan.

(p) "Begin Actual Construction" shall mean, in general, initiation of physical on-site construction activities including, but not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(q) "Adverse Impact on Visibility" shall mean visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility.

(r) "Visibility Impairment" shall mean any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

(s) "Natural Conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast or coloration.

(t) "Offset ratio" shall mean the ratio of total actual emissions reductions to total allowable emissions increases of such pollutant from the new source.

(3) Applicability. Except as provided in Paragraphs 335-3-14-.05(4), (5), and (6), no Air Permit shall be issued to a person proposing to construct or make a major modification to a major facility (for the pollutant for which the area has been designated nonattainment) in a nonattainment area or which will have a significant impact if located outside the nonattainment area unless:

(a) The person demonstrates that the new source or the major modification will meet an emission limitation, said emission limitation to be the lowest achievable emission rate (LAER) for that source or facility;

(b) The person certifies that all existing major sources owned or operated by that person (or any entity controlling, controlled by, or under common control with that person) within Alabama are in compliance with applicable emission limits or are on an acceptable schedule;

(c) The person demonstrates that emission reductions from existing source(s) in the area of the proposed source/major modification (whether or not under the same ownership) meet the offset requirements of Paragraph 335-3-14-.05(6);

(d) Reserved.

(4) Exceptions.

(a) Reserved.

(b) Reserved.

(c)1. A person proposing to construct or make a major modification to a major facility subject to the provisions of this Section, located in a nonurban nonattainment area (less than 200,000 population), shall be required to install LAER but shall not be required to obtain emission offsets as specified herein.

2. The provisions of Subdivision 335-3-14-.05(4)(c)1.



are applicable to volatile organic compound sources only.

(d) Construction of or modification to a major source locating in a nonattainment area which is projected to be attainment as of the startup date of such source shall be exempt from the requirements of this Section.

(e) Reserved.

(5) Temporary Emissions. The requirements of Subparagraph 335-3-14-.05(3)(c) shall not apply to emissions of a particular pollutant if the person applying for an Air Permit under this Section can demonstrate that the emissions of the pollutant are of a temporary nature including but not limited to those from a pilot plant, a portable facility, construction, or exploration; and notice is given to the Director at least thirty (30) days prior to relocation of such source identifying the proposed new location and the probable duration of operation at such location.

(6) When a facility or modification subject to this Section may impair the visibility of a Federal Class I area, the following procedures shall be followed:

(a) The facility shall provide an analysis of the impairment to visibility that would occur as a result of the facility or modification and general commercial, industrial and other growth associated with the facility or modification.

(b) The Director shall notify all affected Federal Land Managers within 30 days of receipt of any advance notification of a permit application for a proposed major stationary facility or modification, the emissions from which may affect a Class I Area. The Director shall provide written notification to all affected Federal Land Managers within 30 days of receiving the permit application. At least 30 days prior to the publication of the notice for public comment on the application, the Director shall provide the Federal Land Manager with a copy of all information relevant to the permit application including an analysis provided by the facility of the potential impact of the proposed facility on visibility.

(c) The Director shall consider any analysis concerning visibility impairment performed by the Federal Land Manager if the analysis is received within 30 days of being provided the permit application information and analysis required in Subparagraph 335-3-14-.05(6)(b). If the Director finds that the analysis of the Federal Land Manager fails to demonstrate to his satisfaction that an adverse impact on visibility will result in the Federal Class I area, the Director shall provide in the notice for public comment on the application, an explanation of his

decision or notice as to where the explanation can be obtained.

(d) The Director may require monitoring of visibility in any Class I area near the proposed new facility or modification.

(e) The requirements of this Paragraph shall not apply to a particular major stationary facility or major modification, if the facility or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the Governor of Alabama requests that it be exempt from those requirements.

(7) Offset Standards.

(a) Increased emissions by a source or facility subject to this Section must be offset by a reduction in the emissions of that pollutant by the source itself or by other sources in the area to the extent necessary to prevent interference with reasonable further progress toward attainment.

1. The offset ratio for ozone (marginal) nonattainment areas shall be at least 1.1 to 1.

2. The offset ratio for all other nonattainment areas shall be at least 1.0 to 1.

(b) When a major source or modification, which is otherwise subject to the requirements of this Paragraph, will result in a specific and well defined increase in secondary emissions, which can be accurately quantified and which will impact the same nonattainment area, these emissions shall be offset in accordance with the requirements of this Paragraph.

(c) The baseline for determining credit for emission offsets of any source shall be the allowable emissions of said source or the existing emissions of said source, not including any malfunctions, whichever is less.

(d) Reduced allowable emissions from an existing source due to a change to a cleaner fuel may be used to offset emissions from the new source or alteration so long as the change will occur at some future date. Emission reductions from a change of fuel shall not be used to offset emissions if there are not adequate supplies of the new fuel available.

(e) Offsets shall be made on a tons-per-year basis when all facilities involved in the emission offset calculations are operating at their maximum expected production rate. However, a source may be credited with

emission reductions achieved by the shutdown of a source or the curtailment of production of a source below that which existed at the time the application was submitted, provided that the work force to be affected has been notified of the proposed shutdown or curtailment.

(f) All emission reductions used for offsets must be legally enforceable in a manner approved by the Director.

(8) Reserved.

(9) Banking of Emission Offsets. Offsets approved after January 16, 1979, which exceed the requirement of reasonable further progress may be "banked" for future use; likewise, reductions in emissions from existing sources which exceed the requirement of reasonable further progress may be "banked" for future use. The banking is subject to the following requirements:

(a)1. Application shall be made in writing to the Director, describing the emission offsets to be banked, such description to include location, source, and type of emissions.

2. Emission offsets cannot be banked beyond the allowable emissions of said source or the existing emission of said source, not including any malfunctions, whichever is less.

(b) Upon approval by the Director of said application, the banked emissions shall be credited to the facility submitting such application.

(c)1. No emission offsets banked in accordance with the provisions of this Paragraph shall be used unless written notice is provided to the Director thirty (30) days prior to submission of the necessary permit applications, to provide opportunity for review of the proposed use of the banked emission offsets.

2. In the event that a determination is made that the banked emission offsets may not be used for the proposed construction, written notice shall be afforded the applicant, as provided in Section 335-3-14-.02(3), herein.

(d) In the event that a determination under Subdivision 335-3-14-.05(9)(c)2. is made by the Director, construction may proceed if, and only if, emission offsets are obtained sufficient to satisfy the requirements of Paragraph 335-3-14-.05(7).

(e) Nothing contained in this Paragraph shall prohibit the transfer, assignment, sale, or otherwise complete disposition of said banked emission offsets, provided that written notice is provided to the Director.

thirty (30) days prior to such disposition, describing in detail the recipient of the banked emissions.

(10) Reserved.

(11) At such time that a particular source or facility or modification becomes a major facility or major modification solely by virtue of a relaxation in any enforceable limitation established after August 7, 1980, on the capacity of the source, facility or modification otherwise to emit a pollutant, then the requirements of this Section shall apply as though construction had not yet commenced.

(12) The requirements of this Rule shall not apply to a particular major stationary facility or major modification if:

(a) The major facility or major modification was not subject to this Section as in effect on November 26, 1979, or to the Federal Emission Offset Interpretative Ruling as in effect January 18, 1979, if the owner or operator:

1. Obtained all necessary preconstruction approval before August 7, 1980;

2. Commenced construction within 18 months from August 7, 1980; and

3. Did not discontinue construction for a period of (18) eighteen months or more and completed construction within a reasonable time or

(b) The facility or modification would be a major stationary facility or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary facility or modification and the facility does not belong to any of the following categories:

1. Coal cleaning plants (with thermal dryers);
2. Kraft pulp mills;
3. Portland cement plants;
4. Primary zinc smelters;
5. Iron and steel mills;
6. Primary aluminum ore reduction plants;
7. Primary copper smelters;
8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
9. Hydrofluoric, sulfuric or nitric acid plants;
10. Petroleum refineries;
11. Lime plants;
12. Phosphate rock processing plants;
13. Coke oven batteries;
14. Sulfur recovery plants;

15. Carbon black plants (furnace process)
16. Primary lead smelters;
17. Fuel conversion plants;
18. Sintering plants;
19. Secondary metal production plants;
20. Chemical process plants;
21. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
22. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
23. Taconite ore processing plants;
24. Glass fiber processing plants;
25. Charcoal production plants;
26. Any other stationary category which, as of August 7, 1980 is being regulated under Sections 111 or 112 of the Clean Air Act;

(13) Public Participation.

(a) After receipt of an application to construct or any addition to such application, the Director shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this Rule the date on which the Director received all required information.

(b) Within one (1) year after receipt of a complete application, the Director shall make a final determination of the application. This involves performing the following actions in a timely manner:

1. Make a preliminary determination whether construction should be approved, approved with conditions or disapproved.

2. Make available in at least one location in each region in which the proposed facility or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.

3. Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed facility or modification would be constructed, of the application, the preliminary determination, and the opportunity for written public comment, as well as comment at a public hearing.

4. Send a copy of the notice of public comment to the applicant, to EPA and to officials and agencies having

cognizance over the location where the proposed construction would occur as follows: any other state or local air pollution control agencies, the chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the facility or modification.

5. Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the facility or modification, the control technology required, and other appropriate considerations.

6. Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Director shall consider the applicant's response in making a final decision. The Director shall make all comments available for public inspection in the same locations where the Director made available preconstruction information relating to the proposed facility or modification.

7. Make a final determination whether construction should be approved, approved with conditions or disapproved pursuant to this Section.

8. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Director made available preconstruction information and public comments relating to the facility or modification.

Author: James W. Cooper and John E. Daniel

Statutory Authority: Code of Alabama 1975, §§ 22-28-14, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: January 18, 1972.

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ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENTAir DivisionChapter 335-3-15  
Synthetic Minor Operating PermitsTable of Contents

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335-3-15-.01 Definitions. For the purposes of this Chapter only, the following words and phrases, unless a different meaning is plainly required by the content, shall have the following meanings.

(a) "Act" shall mean the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.

(b) "Air Permit" shall mean any permit issued pursuant to the regulations in ADEM Admin. Code R. 335-3-14.

(c) "Department" shall mean the Alabama Department of Environmental Management.

(d) "Operating Permit" shall mean any permit issued pursuant to the regulations in ADEM Admin. Code R. 335-3-16.

(e) "Potential Major Source" shall mean any major source as defined in ADEM Admin. Code R. 335-3-16-.01 whose actual emissions are less than the major source thresholds.

(f) "Stationary Source" shall mean any building, structure, facility, or installation that emits or may emit any regulated air pollutant as defined in ADEM Admin. Code R. 335-3-16-.01 or any pollutant listed in Appendix G of this Administrative Code.

(g) "Synthetic Minor Operating Permit" shall mean a permit which restricts a source's potential to emit so that it is a Synthetic Minor Source.

(h) "Synthetic Minor Source" shall mean a source whose potential to emit is restricted to less than a major source threshold as defined in ADEM Admin. Code R. 335-3-16-.01.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: \_\_\_\_\_, 1993

Amended:

335-3-15-.02 General Provisions.

(1) Any Potential Major Source operating without an Air Permit, an Operating Permit or a Synthetic Minor Operating Permit may continue to operate (or may restart) only if its owner or operator obtains a Synthetic Minor Operating Permit or an Operating Permit prior to a date to be set by the Director (or prior to restarting).

(2) Display of Synthetic Minor Operating Permit. A person who has been granted a Synthetic Minor Operating Permit for any article, machine, equipment, or other contrivance shall keep such permit under file or on display at all times at the site where the article, machine, equipment, or other contrivance is located and will make such a permit readily available for inspection by any and all persons who may request to see it.

(3) The Director shall have the authority to decide cases where an article, machine, equipment, or other contrivance is not clearly subject to nor exempt from the application of this Rule. In addition, the Director may rule that a particular article, machine, equipment, or other contrivance is subject to the application of this Rule even though it is exempt from the system according to Paragraph 335-3-15-.03(1) and Paragraph 335-3-15-.02(7) of this Rule. The operator or builder of such an article, machine, equipment, or other contrivance may appeal the Director's classification to the Commission, which shall overrule the Director only if it is shown that he acted arbitrarily and contrary to the purposes of the Act.

(4) The Department may issue a Synthetic Minor Operating Permit subject to conditions which will bring the operation of any article, machine, equipment, or other contrivance within the standards of Subparagraph 335-3-15-.02(8)(a) of this Rule in which case the conditions shall be specified in writing. Commencing construction or operation under such a Synthetic Minor Operating Permit shall be deemed acceptance of all the conditions specified. The Department shall issue a Synthetic Minor Operating Permit with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment, or other contrivance can operate within the standards of Subparagraph 335-3-15-.02(8)(a) of this Rule under the revised conditions.

(5) Provision of Sampling and Testing Facilities. A person operating or using any article, machine, equipment or other contrivance for which these rules and regulations require a



permit shall provide and maintain such sampling and testing facilities as specified in the Synthetic Minor Operating Permit.

(6) Transfer. A Synthetic Minor Operating Permit shall not be transferable whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another.

(7) Delegation of Synthetic Minor Operating Permit requirements to Local Air Pollution Control Programs.

(a) Local air pollution control programs may receive delegation of authority from the Director to administer the requirements of Chapter 335-3-15 within their jurisdiction provided the local air pollution control program:

1. Adopts regulations which will insure that applicants are required to satisfy the same requirements contained in the Department's regulations; and

2. Adopts regulations which will require that the Department be provided with an opportunity to review the permit application, the analysis of the permit, and proposed permit conditions at least 10 days prior to issuance of a Synthetic Minor Operating Permit.

(b) If the Director of the Department determines that local program procedures for implementing all the portions of Chapter 335-3-15 are inadequate, or are not being effectively carried out, any authority delegated to the local programs to administer Chapter 335-3-15 may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the local air pollution control program.

(c) The Department reserves the authority contained in Subparagraph 335-3-15-.02(8)(b), to revoke any Synthetic Minor Operating Permit issued pursuant to this Chapter.

(d) Any Synthetic Minor Operating Permit issued by a local air pollution control program, including all conditions contained therein, is enforceable by the Department.

(8) General Standards for Granting Synthetic Minor Operating Permits.

(a) The Department shall deny a Synthetic Minor Operating Permit if the applicant does not show that every article, machine, equipment, or other contrivance, the use of which may cause the issuance of air contaminants, is so designed, controlled, or equipped with such air pollution control equipment, that it may be expected to operate without emitting or

without causing to be emitted air contaminants in violation of this Administrative Code. Issuance of a Synthetic Minor Operating Permit shall not relieve the permittee from complying with all other applicable requirements not contained in this Administrative Code.

(b) The Department shall deny a Synthetic Minor Operating Permit if the applicant does not present, in writing, a plan whereby the emission of air contaminants by every article, machine, equipment, or other contrivance described in the permit application, will be reduced during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency in accordance with the provisions of Chapter 335-3-2, where such a plan is required.

(c) Before a Synthetic Minor Operating Permit is granted, the Director may require the applicant to provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or degree of air contaminants discharged into the atmosphere from the article, machine, equipment, or other contrivance described in the Synthetic Minor Operating Permit. In the event of such a requirement, the Department shall notify the applicant in writing of the required size, number, and location of the sampling platform; the access to the sampling platform; and the utilities for operating and sampling and testing equipment. The Department may also require the applicant to install, use, and maintain such monitoring equipment or methods; sample such emissions in accordance with such methods, at such locations, intervals, and procedures as may be specified; and provide such information as the Department may require.

(d) Before acting on an application for a Synthetic Minor Operating Permit, the Department may require the applicant to furnish further information or further plans or specifications.

(e) If the Department finds that the article, machine, or other contrivance has been constructed not in accordance with the Synthetic Minor Operating Permit application, and if the changes noted are of a substantial nature in that the amount of air contaminants emitted by the article, machine, equipment, or other contrivance may be increased, or in that the effect is unknown, then it shall revoke the Synthetic Minor Operating Permit. The Department shall not accept any further application for a Synthetic Minor Operating Permit until the article, machine, equipment, or other contrivance has been reconstructed in accordance with said Synthetic Minor Operating Permit or until the applicant has proven to the satisfaction of the Department that the change will not cause an increase in the emission of air contaminants.

(f) The Department shall deny a Synthetic Minor Operating

Permit where it determines that the construction and operation of such Stationary Source will interfere with attaining or maintaining any primary or secondary standard established by Subparagraph 335-3-1-.04(1). A new Stationary Source or modification will be considered to interfere with attaining or maintaining a standard when such Stationary Source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the National Primary and Secondary Ambient Air Quality Standards, as defined in ADEM Admin. Code R. 335-3-1-.03:

POLLUTANT                      AVERAGING TIME

	<u>Annual</u>	<u>24 hours</u>	<u>8 hours</u>	<u>3 hours</u>	<u>1 hour</u>
<u>SO<sub>2</sub></u>	<u>1.0 µg/m<sup>3</sup></u>	<u>5 µg/m<sup>3</sup></u>		<u>25 µg/m<sup>3</sup></u>	
<u>PM<sub>10</sub></u>	<u>1.0 µg/m<sup>3</sup></u>	<u>5 µg/m<sup>3</sup></u>			
<u>NO<sub>2</sub></u>	<u>1.0 µg/m<sup>3</sup></u>				
<u>CO</u>			<u>0.5 mg/m<sup>3</sup></u>		<u>2 mg/m<sup>3</sup></u>

(g) A determination may be made by the Director to deny a permit application if the applicant operates other permitted facilities or Stationary Sources within the state which are in substantial noncompliance as determined by the Director, until such noncompliance is corrected or if the Director determines that a permit that results in compliance with applicable air pollution control standards could not be issued, or if issued, could not be complied with.

(h) Revocation of Synthetic Minor Operating Permits. Any Synthetic Minor Operating Permit granted by the Department may be revoked for any of the following causes:

1. failure to comply with any conditions of the permit:
2. failure to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods; and sample such emissions in accordance with such methods at such locations, intervals and procedures as the Department may prescribe in accordance with Subparagraph 335-3-1-.04(2);

3. failure to comply with any provisions of any Departmental administrative order issued concerning the permitted Stationary Source or facility.

4. failure to allow employees of the Department upon proper identification to:

(i) enter any premises, at reasonable times, where any article, machine, equipment, or other contrivance described in Subparagraph 335-3-15-.03(1) is located or in which any records are required to be kept under provisions of the permit and/or this Administrative Code;

(ii) have access to and copy any records required to be kept under provisions of the permit and/or this Administrative Code;

(iii) inspect any monitoring equipment or practices being maintained pursuant to the permit and/or rules and regulations; and

(iv) have access to and sample any discharge of air contaminants resulting directly or indirectly from the operation of any article, machine, equipment, or other contrivance described in Subparagraph 335-3-15-.03(1).

5. failure to comply with the Department's Administrative Codes.

6. for any other cause, after a hearing which establishes, in the judgment of the Department, that continuance of the permit is not consistent with the purpose of this Act or regulations adopted pursuant thereto.

(9) Stack Heights.

(a) Definitions. For purposes of this Subparagraph, the following terms will have the meanings ascribed in this Paragraph.

1. "Emission limitation" and "emission standard" mean a requirement, established by ADEM or the EPA Administrator, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

2. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

3. "A stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or

operator, to undertake a program of construction of the stack to be completed in a reasonable time.

4. "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(i) Using that portion of a stack which exceeds good engineering practice stack height;

(ii) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(iii) Increasing final exhaust gas plume rise by manipulating source-process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

(iv) The preceding sentence does not include:

(I) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(II) The merging of exhaust gas streams where:

A. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;

B. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

C. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Director shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that

merging was not significantly motivated by such intent, the Director shall deny credit for the effects of such merging in calculating the allowable emissions for the source:

(III) Smoke management in agricultural or silvicultural prescribed burning programs:

(IV) Episodic restrictions on residential wood burning and open burning; or

(V) Techniques under Subparagraph 335-3-15-.02(9)(a)4.(iii) which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

5. "Good engineering practice" (GEP) stack height means the greater of:

(i) 65 meters, measured from the ground-level elevation at the base of the stack;

(ii)(I) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required under 40 CFR 51 and 52, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation:

$$H_g = 2.5H.$$

(II) For all other stacks,

$$H_g = H + 1.5 L.$$

where

$H_g$  = good engineering practice stack height measured from the ground-level elevation at the base of the stack,

$H$  = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

$L$  = lesser dimension, height or projected width of nearby structure(s),

provided that the Director may require the use of a field study or fluid model to verify GEP stack height for the source; or

(iii) The height demonstrated by a fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air

pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

6. "Nearby" as used in Subparagraph 335-3-15-.02(9)(a)5. of this Paragraph is defined for a specific structure or terrain feature and

(i) for purposes of applying the formulas provided in Subparagraph 335-3-15-.02(9)(a)5.(ii) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile), and

(ii) for conducting demonstrations under Subparagraph 335-3-15-.02(9)(a)5.(iii) means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height ( $h_t$ ) of the feature, not to exceed 2 miles if such feature achieves a height ( $h_t$ ) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in Subparagraph 335-3-15-.02(9)(a)5.(ii)(II) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

7. "Excessive concentration" is defined for the purpose of determining GEP stack height under Subparagraph 335-3-15-.02(9)(a)(5)(iii) and means:

(i) for sources seeking credit for stack height exceeding that established under Subparagraph 335-3-15-.02(9)(a)5.(ii), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than a NAAQS. For sources subject to the PSD program (Rule 335-3-14-.04), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emissions rate to be used in making demonstrations under this Rule shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that

this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator:

(ii) for sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under Subparagraph 335-3-15-.02(9)(a)5.(ii), either:

(I) a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects as provided in Subparagraph 335-3-15-.02(9)(a)7.(i), except that the emission rate specified elsewhere in these regulations (or, in the absence of such a limit, the actual emission rate) shall be used, or

(II) the actual presence of a local nuisance caused by the existing stack, as determined by the Director: and

(iii) for sources seeking credit after January 12, 1979, for a stack height determined under Subparagraph 335-3-15-.02(9)(a)5.(ii) where the Director requires that use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Subparagraph 335-3-15-.02(9)(a)5.(ii), a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(b) Before acting on any Synthetic Minor Operating Permit, the Director shall require that the degree of emission limitation required of any source for control of any air pollutants shall not be affected by so much of any source's stack height that exceeds GEP or by any other dispersion technique, except as provided in Paragraph 335-3-15-.02(9)(c).

(c) The provisions of Paragraph 335-3-15-.02(9)(b) shall not apply to stack heights in existence, or dispersion techniques implemented, prior to December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the Clean Air Act, which were constructed, or reconstructed or for which major modifications, as defined pursuant to Subparagraphs 335-3-14-.05(2)(d) and 335-3-14-.04(2)(b)1., were carried out after December 31, 1970.

(d) If any existing source, after appropriate application of the preceding limitations and provisions, is found to exceed or potentially exceed a NAAQS or PSD increment, when operating within previously established emission limitations, the emissions



limitations applicable to that source shall be modified so as to eliminate and prevent the exceedance.

(e) If any new source or source modification, after appropriate application of the preceding limitations and provisions, is predicted to exceed a NAAQS or PSD increment when evaluated under emission limitations consistent with other applicable rules and regulations, the emission limitations considered shall be deemed inadequate and different emission limits, based on air quality considerations, shall be made applicable.

(f) If any source provides a field study or fluid modeling demonstration proposing a GEP stack height greater than that allowed by Subparagraphs 335-3-15-.02(9)(a)5.(i) and 335-3-15-.02(9)(a)5.(ii), then the public will be notified of the availability of the study and provided the opportunity for a public hearing before any new or revised emission limitation or permit is approved.

(g) The actual stack height used or proposed by a source shall not be restricted in any manner by requirements of this Section.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date:

Amended: , 1993

335-3-15-.03 Applicability. The provisions of this Chapter shall apply only to Potential Major Sources, except for those Stationary Sources which are applying for, will apply for, or have obtained Operating Permits.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: \_\_\_\_\_, 1993

Amended:

335-3-15-.04 Synthetic Minor Operating Permit Requirements.

(1) General Provisions.

(a) The Synthetic Minor Operating Permit shall include specific conditions that restrict the facility's potential to emit and are federally enforceable.

(b) Any Stationary Source requesting a Synthetic Minor Operating Permit must undergo the public participation procedures

prescribed in ADEM Admin. Code R. 335-3-15- .05.

(c) A Potential Major Source that does not obtain a Synthetic Minor Operating Permit shall apply for an Operating Permit.

(d) The Department shall act, within a reasonable time, on an application for a Synthetic Minor Operating Permit and shall notify the applicant in writing of its approval, conditional approval, or denial.

(e) In the event of a denial of a Synthetic Minor Operating Permit, the Department shall notify the applicant in writing of the reason therefor. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgment of the persons served or affidavit of the person making the service. The Department shall not accept a further application unless the applicant has complied with the objections specified by the Department as its reasons for denial of Synthetic Minor Operating Permit.

(f) The facility shall obtain a Synthetic Minor Operating Permit prior to beginning operation of the new or modified Stationary Source and shall notify the Department at least ten (10) days prior to beginning such operation.

(g) The holder of a Synthetic Minor Operating Permit shall comply with all conditions contained in such permit, as well as all applicable provisions of this Administrative Code. Such conditions shall be permanent, quantifiable and otherwise enforceable as a practical matter. Synthetic Minor Operating Permits which do not conform to the provision in this Chapter and the requirements of EPA's underlying regulations may be deemed not "federally enforceable" by EPA.

(2) Existing Potential Major Sources.

(a) Any facility that would request a Synthetic Minor Operating Permit shall apply to the Department within one year after approval by EPA of the Operating Permit regulations in Chapter 16.

(b) Any facility possessing an Operating Permit or whose potential emissions require it to obtain an Operating Permit may, at any time, accept federally enforceable permit restrictions which would allow it to obtain a Synthetic Minor Operating Permit.

(3) New Potential Major Sources.

(a) Any new Potential Major Source which commences construction after November 15, 1995, may apply to the Department

for a Synthetic Minor Operating Permit. This application shall be accurately completed and submitted to the Department prior to such construction.

(b) A Synthetic Minor Operating Permit for a new Potential Major Source shall expire and the application shall be canceled two years from the date of issuance of the Synthetic Minor Operating Permit if construction has not begun.

(4) Modifications to Synthetic Minor Sources

(a) Any Stationary Source subject to the regulations in this Chapter that is modified so that it becomes a major source as defined in ADEM Admin. Code R. 335-3-16-.01(15) shall apply for an Operating Permit within twelve (12) months of beginning operation.

(b) Any modification which would require a change to existing permit conditions that restrict the facility's potential to emit or require new conditions that restrict the facility's potential to emit, as required in Subparagraph 335-3-15-.04(1)(a) of this Rule, must undergo the public participation procedures prescribed in ADEM Admin. Code R. 335-3-15-.05.

(5) Exceptions to Violations of Emission Limits.

(a) The Director may, in the Synthetic Minor Operating Permit, exempt on a case by case basis any exceedances of emission limits or permit conditions which cannot reasonably be avoided, such as during periods of start-up and shut-down or load change.

(b) The Director may exempt on a case by case basis exceedances of emission limits and permit conditions which cannot reasonably be avoided as a result of an "emergency" situation.

1. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the facility, including acts of God. These are situations that require immediate corrective action (s) to restore normal operation, and that cause the facility to exceed a technology based emission limitation set by the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include exceedances of the permit emission limitations caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

2. Exceedances of emissions limitations during emergencies at a facility may be exempted as being violations provided that:

(i) the permittee identifies the cause (s) of the emergency;

(ii) the permitted facility was being properly operated until such a time as the emergency occurred;

(iii) during the period of which the emergency occurred, the permittee took all reasonable steps to minimize levels of emissions that exceeded the standards, or other requirements of the permit; and

(iv) the permittee submitted notice of the emergency to the Department within two (2) working days of the time when the emissions limitations were exceeded as a result of the emergency. Such notice shall include those deviations attributable to upset conditions as defined in the permit, the probable cause of said deviations, and any corrective actions or preventive measures that were taken. Within 5 working days of the emergency, a written documentation of what was reported in the notice of the emergency shall be submitted to the Department.

3. The Director shall be the sole determiner of whether an emergency has occurred.

4. This provision is in addition to any emergency or upset provision contained in any applicable requirement of the permit or the regulations.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date \_\_\_\_\_, 1993

Amended:

335-3-15-.05 Public Participation.

(1)(a) The provisions of this Rule apply only to potential major sources as specified in ADEM Admin. Code R. 335-3-15-.04(1)(b) and -.04(4)(b).

Notice shall be given by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice and also to persons on a mailing list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list. A copy of the notice shall also be provided to EPA.

(b) The notice shall identify the affected facility; the name and address of the permittee; the address of the Department; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name,

address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, except for information entitled to be kept confidential, and all other materials available to the Department that are relevant to the permit decision; a brief description of the comment procedures required by this Rule; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled):

(c) The Department shall provide at least 15 days for public comment; and

(d) The Department shall keep a record of the commenters and also of the issues raised during the public participation process.

(2) Any new Stationary Source which is required to undergo a public comment period shall not initiate construction until all public participation procedures have been completed.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§ 22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: \_\_\_\_\_, 1993

Amended:

# ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

## Air Division

### ADEM Admin. Code 335-3-16 Major Source Operating Permits

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335-3-16-.01 Definitions. For the purposes of this Chapter only, the following words and phrases, unless a different meaning is plainly required by the content, shall have the following meanings.

(a) "Act" means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.

(b) "Affected source" means a source that includes one or more affected units subject to emission reduction requirements or limitations in title IV of the Act.

(c) "Affected States" are all States:

1. Whose air quality may be affected and that are contiguous to the State in which permit modification or permit renewal is being proposed; or

2. That are within 50 miles of the permitted source.

(d) "Affected Unit" means any unit subject to emission reduction requirements or limitations under title IV of the Act.

(e) "Applicable Requirement" means all of the following as they apply to emissions units (including requirements that have been promulgated or approved by EPA through rule making at the time of issuance but have future effective compliance dates):

1. Any standard or other requirement provided for in Alabama's State Implementation Plan approved or promulgated by EPA through rule making in Part 51 of Title 40 in the Code of Federal Regulations that implements the relevant requirements of the Act, including any revisions to that plan promulgated in Subpart B of Part 52 of Title 40 in the Code of Federal Regulation
2. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rule making under title I, including parts C or D, of the Act; (Air Pollution Prevention and Control, Prevention of Significant Deterioration and Plan Requirement for nonattainment areas).
3. Any standard or other requirement in ADEM Admin. Code R. 335-3-10 (NSPS); including section 111(d);
4. Any standard or other requirement ADEM Admin. Code R. 335-3-11 (NESHAPS), including any requirement concerning accident prevention under section 112(r)(7) of the Act;
5. Any standard or other requirement of the acid rain program under title IV (Acid Deposition Control) of the Act or the regulations promulgated thereunder;
6. Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;
7. Any standard or other requirement governing solid waste incineration, under section 129 of the Act;
8. Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;
9. Any standard or other requirement for tank vessels under section 183(f) of the Act;
10. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone (title VI of the Act, Stratospheric Ozone Protection) unless the Administrator has determined that such requirements need not be contained in a title V permit; and

11. Any national ambient air quality standard as defined in ADEM Admin. Code R. 335-3-1-.03 or increment as defined in ADEM Admin. Code R. 335-3-14-.04 (3) or visibility requirement in ADEM Admin. Code R. 335-3-14-.04 (15), but only as it would apply to temporary sources permitted pursuant to ADEM Admin. Code R. 335-3-16-.09.

(f) "the Department" means the Alabama Department of Environmental Management.

(g) "Designated Representative" means a responsible person or official authorized by the owner or operator of an Affected Unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to an Affected Unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Affected Unit.

(h) "Draft Permit" means the version of a permit for which the Department offers public participation under ADEM Admin. Code R. 335-3-16-.15(4) or affected State review under ADEM Admin. Code R. 335-3-16-.15(2) of this part.

(i) "Emissions Allowable under the Permit" means a federally enforceable permit term or condition determined at issuance of the permit to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

(j) "Emissions Unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. This term is not meant to alter or affect the definition of the term "unit" for purposes of title IV (Acid Deposition Control) of the Act.

(k) "The EPA" or "the Administrator" means the Administrator of the EPA or his/her designee.

(l) "Final Permit" means the version of a permit issued by the Department that has completed all review procedures required by ADEM Admin. Code R. 335-3-16-.12 and ADEM Admin. Code R. 335-3-16-.15 of this Chapter.

(m) "Fugitive Emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(n) "General Permit" means a permit that meets the requirements of ADEM Admin. Code R. 335-3-16-.08.



(o) "Insignificant Activity" generally means any air emissions or air emissions unit at a plant that has the potential to emit less than 5 tons per year of any criteria pollutant or less than 1000 pounds per year of any pollutant listed in Appendix G of ADEM Admin. Code R. 335-3. "Insignificant activity" shall also mean any change in the activity or level of operation of an air emissions unit that has the potential to increase emissions of any criteria pollutant by less than 5 tons per year or any pollutant listed in Appendix G of ADEM Admin. Code Chap. 335-3-16 by less than 1,000 pounds per year. The Director may determine that certain types or classes of units may be considered insignificant at higher emission levels, or that, due to the nature of the pollutant(s) emitted, a unit may be considered significant at a lower emission rate. The Director shall maintain lists of air emissions or air emission units which are considered to be insignificant without a determination of emission levels by the permittee.

(p) "Interim Approval" means a conditional approval of ADEM Admin. Code 335-3-16 by the Administrator that may extend the implementation deadline of this Administrative Code.

(q) "Major Source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraph (1) or (2) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two digit code) as described in the Standard Industrial Classification Manual, 1987.

1. A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed in Appendix G of this Administrative Code, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

2. A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of this Chapter, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers):
- (ii) Kraft pulp mills:
- (iii) Portland cement plants:
- (iv) Primary zinc smelters:
- (v) Iron and steel mills:
- (vi) Primary aluminum ore reduction plants:
- (vii) Primary copper smelters:
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day:
- (ix) Hydrofluoric, sulfuric, or nitric acid plants:
- (x) Petroleum refineries:
- (xi) Lime plants:

- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) All other stationary source categories regulated by a standard promulgated under Chapters 10 and 11 of this Administrative Code, but only with respect to those air pollutants that have been regulated for that category;

(r) "Operating Permit" or "Permit" (unless the context suggests otherwise) means any permit or group of permits that is issued, renewed, amended, or revised pursuant to this Chapter.

(s) "Permit Modification" means a revision to a permit that meets the requirements of ADEM Admin. Code R. 335-3-16-.13(3) and (4).

(t) "Permit Revision" means any permit modification or administrative permit amendment.

(u) "Potential to Emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source's potential to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in title IV (Acid Deposition Control) of the Act or the regulations promulgated thereunder.

(v) "Proposed Permit" means the version of a permit that the Department proposes to issue and forwards to the Administrator for review in compliance with ADEM Admin. Code R: 335-3-16-.15(2).

(w) "Regulated Air Pollutant" means the following:

1. Nitrogen oxides or any volatile organic compounds;
2. Any pollutant for which a national ambient air quality standard has been promulgated;
3. Any pollutant that is subject to any standard promulgated under section 111 of the Act;
4. Any Class I or II substance subject to a standard promulgated under or established by title VI (Stratospheric Ozone Protection) of the Act; or
5. Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act, including sections 112(g), (j), and (r) of the Act, including the following:
  - (i). Any pollutant subject to requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and
  - (ii). Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to section 112(g)(2) requirement.

(x) "Renewal" means the process by which a permit is reissued at the end of its term.

(y) "Responsible Official" means one of the following:

1. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the Department;

2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

3. For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

4. For affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under title IV (Acid Deposition Control) of the Act or the regulations promulgated thereunder are concerned; and

(ii) The designated representative for any other purposes under this Chapter.

(z) "Section 502(b)(10) Changes" are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), record keeping, reporting, or compliance certification requirements.

(aa) "Stationary Source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Appendix G of this Administrative Code.

(bb) "Trivial Activity" means any air emissions from a unit that is considered inconsequential, as determined by the Director. The Director shall maintain a list of air emission units or changes in air emissions that have been determined to be trivial activity.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8

History: Effective Date: December 28, 1993

Amended:

### 335-3-16-.02 General Provisions.

(1) Any Major Source operating without an Air Permit, an Operating Permit or a Synthetic Minor Operating Permit (as defined in Chapters 14, 15 and 16 of this Administrative Code) may continue to operate (or may restart) only if its owner or operator obtains an Operating Permit or a Synthetic Minor Operating Permit prior to a date to be set by the Director (or prior to restarting).

(2) Display of Operating Permit. A person who has been granted an Operating Permit for any article, machine, equipment, or other contrivance shall keep such permit under file or on display at all times at the site where the article, machine, equipment, or other contrivance is located and will make such a permit readily available for inspection by any and all persons who may request to see it.

(3) The Director shall have the authority to decide cases where an article, machine, equipment, or other contrivance is not clearly subject to nor exempt from the application of this Rule. The operator or builder of such an article, machine, equipment, or other contrivance may appeal the Director's classification to the Commission, which shall overrule the Director only if it is shown that he acted arbitrarily and contrary to the purposes of the Act.

(4) The Director may issue an Operating Permit subject to conditions which will bring the operation of any article, machine, equipment, or other contrivance within the standards of Subparagraph 335-3-16-.02(8)(a) of this Rule in which case the conditions shall be specified in writing. Commencing construction or operation under such an Operating Permit shall be deemed acceptance of all the conditions specified. The Director may issue an Operating Permit with revised conditions upon receipt of a new application, if the applicant demonstrates that the article, machine, equipment, or other contrivance can operate within the standards of Subparagraph 335-3-16-.02(8)(a) of this Rule under the revised conditions.

(5) Provision of Sampling and Testing Facilities. A person operating or using any article, machine, equipment or other contrivance for which this Administrative Code require a permit shall provide and maintain such sampling and testing facilities as specified in the Operating Permit.

(6) Transfer. An Operating Permit shall not be transferable whether by operation of law or otherwise, either from one location to another, from one piece of equipment to another, or from one person to another, except as provided in ADEM Admin. Code R. 335-3-16.13(a)(5).

(7) Delegation of Operating Permit requirements to Local Air Pollution Control Programs.

(a) Local air pollution control programs may receive delegation of authority from the Director to administer the requirements of ADEM Admin. Code 335-3-16 within their jurisdiction provided the local air pollution control program:

1. adopts regulations insuring applicants are required to satisfy the same requirements as contained in the Department's regulations; and

2. adopts regulations which require the Director to be provided with an opportunity to review the permit application, the analysis of the permit, and proposed permit conditions at least 30 days prior to issuance of an Operating Permit.

(b) If the Director of the Department determines that local program procedures for implementing all the portions of ADEM Admin. Code 335-3-16 are inadequate, or are not being effectively carried out, any authority delegated to the local programs to administer ADEM Admin. Code 335-3-16 may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the local air pollution control program.

(c) The Director reserves the authority contained in ADEM Admin. Code R. 335-3-16-.02(8)(h), to revoke any Operating Permit issued pursuant to this Chapter.

(d) Any Operating Permit issued by a local air pollution control program, including all conditions contained therein, is enforceable by the Department.

(8) General Standards for Granting Operating Permits.

(a) The Director shall deny an Operating Permit if the applicant does not show that every article, machine, equipment, or other contrivance, the use of which may cause the issuance of air contaminants, is so designed, controlled, or equipped with such air pollution control equipment, that it is expected to operate without emitting or without causing to be emitted air contaminants in violation of this Administrative Code.

(b) The Director shall deny an Operating Permit if the applicant does not present, in writing, a plan whereby the emission of air contaminants by every article, machine, equipment, or other contrivance described in the permit application, will be reduced during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency in accordance with the provisions of ADEM Admin. Code 335-3-2, where such plan is required.

(c) Before an Operating Permit is granted, the Director may require the applicant to provide and maintain such facilities as are necessary for sampling and testing purposes in order to secure information that will disclose the nature, extent, quantity or degree of air contaminants discharged into the atmosphere from the article, machine, equipment, or other contrivance described in the Operating Permit. In the event of such a requirement, the Director shall notify the applicant in writing of the required size, number, and location of the sampling platform; the access to the sampling platform; and the utilities for operating and sampling and testing equipment. The Director may also require the applicant to install, use, and maintain such monitoring equipment or methods, including enhanced monitoring methods prescribed under Section 504(b) or Section 114(a)(3); sample such emissions in accordance with such methods, at such locations, intervals, and procedures as may be specified; and provide such information as the Director may require.

(d) Before acting on an application for an Operating Permit, the Director may require the applicant to furnish further information or further plans or specifications.



(e) If the Director finds that the article, machine, or other contrivance has been constructed not in accordance with the Operating Permit application, and if the changes noted are of a substantial nature in that the amount of air contaminants emitted by the article, machine, equipment, or other contrivance may be increased, or in that the effect is unknown, then he shall revoke the Operating Permit. The Director shall not accept any further application for an Operating Permit until the article, machine, equipment, or other contrivance has been reconstructed in accordance with said Operating Permit or until the applicant has proven to the satisfaction of the Director that the change will not cause an increase in the emission of air contaminants.

(9) Revocation of Operating Permits. Any Operating Permit granted by the Director may be revoked for any of the following causes:

(a) failure to comply with any conditions of the permit;

(b) failure to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods; and sample such emissions in accordance with such methods at such locations, intervals and procedures as the Director may prescribe in accordance with ADEM Admin. Code R. 335-3-1-.04(2);

(c) failure to comply with any provisions of any Departmental administrative order issued concerning the permitted Stationary Source or facility.

(d) failure to allow employees of the Department upon proper identification, to:

1. enter any premises where any article, machine, equipment, or other contrivance described in ADEM Admin. Code R. 335-3-16-.03(1) is located or in which any records are required to be kept under provisions of the permit and/or this Administrative Code;

2. have access to and copy any records required to be kept under provisions of the permit and/or this Administrative Code;

3. inspect any monitoring equipment or practices being maintained pursuant to the permit and/or this Administrative Code; and

4. have access to and sample any discharge of air contaminants resulting directly or indirectly from the operation of any article, machine, equipment, or other contrivance described in ADEM Admin. Code R. 335-3-16-.03(1).

(e) failure to comply with this or any other Administrative Code of the Department.

(f) for any other cause, after a hearing which establishes, in the judgment of the Department, that continuance of the permit is not consistent with the purpose of the Act or this Administrative Code.

(10) Stack Heights

(a) Definitions. For purposes of this Section, the following terms will have the meanings ascribed in this Paragraph.

1. "Emission limitation" and "emission standard" mean a requirement, established by ADEM or the EPA Administrator, which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

2. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

3. "A stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

4. "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(i) Using that portion of a stack which exceeds good engineering practice stack height;

(ii) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(iii) Increasing final exhaust gas plume rise by manipulating source-process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

(iv) The preceding sentence does not include:

(I) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(II) The merging of exhaust gas streams where:

A. The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;

B. After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

C. Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Director shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Director shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

(III) (III) Smoke management in agricultural or silvicultural prescribed burning programs;

(IV) Episodic restrictions on residential woodburning and open burning; or

(V) Techniques under ADEM Admin. Code R. 335-3-14-.02(10)(a)4.(iii) which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

5. "Good engineering practice" (GEP) stack height means the greater of:

(i) 65 meters measured from the ground-level elevation at the base of the stack;

(ii)(I) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required under 40 CFR 51 and 52, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation:

$$H_g \equiv 2.5H$$

(II) For all other stacks,

$$H_g \equiv H \pm 1.5 L$$

where

$H_g$  = good engineering practice stack height measured from the ground-level elevation at the base of the stack.

$H$  = height of nearby structure(s) measured from the ground-level elevation at the base of the stack.

$L$  = lesser dimension, height or projected width of nearby structure(s).

provided that the Director may require the use of a field study or fluid model to verify GEP stack height for the source; or

(iii) The height demonstrated by a fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

6. "Nearby" as used in Subparagraph 335-3-14-.02(10)(a)5. of this Paragraph is defined for a specific structure or terrain feature and

(i) for purposes of applying the formulas provided in Subdivision 335-3-14-.02(10)(a)5. (ii) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile), and

(iii) for conducting demonstrations under Subdivision 335-3-14-.02(10)(a)5.(iii) means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height ( $h_t$ ) of the feature, not to exceed 2 miles if such feature achieves a height ( $h_t$ ) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in Subdivision 335-3-14-.02(10)(a)5.(ii)(II) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

7. "Excessive concentration" is defined for the purpose of determining GEP stack height under Subdivision 16.3.3(a)(5)(iii) and means:

(i) for sources seeking credit for stack height exceeding that established under Subdivision 335-3-14-.02(10)(a)5.(ii), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than a NAAQS. For sources subject to the PSD program (Rule 335-3-14-.04), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emissions rate to be used in making demonstrations under this Rule shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator;

(ii) for sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under Subdivision 335-3-14-.02(10)(a)5.(ii), either:

(I) a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects as provided in Subdivision 335-3-14-.02(10)(a)7.(i), except that the emission rate specified elsewhere in this Administrative Code (or, in the absence of such a limit, the actual emission rate) shall be used, or

(II) the actual presence of a local nuisance caused by the existing stack, as determined by the Director; and

(iii) for sources seeking credit after January 12, 1979, for a stack height determined under Subdivision 335-3-14-.02(10)(a)5.(ii) where the Director requires that use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in Subdivision 335-3-14-.02(10)(a)5.(ii), a maximum ground-level concentration due in whole or part to downwash, wakes, or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(b) Before acting on any Major Source Operating Permit, the Director shall require that the degree of emission limitation required of any source for control of any air pollutants shall not be affected by so much of any source's stack height that exceeds GEP or by any other dispersion technique, except as provided in Paragraph 335-3-14-.02(10)(c).

(c) The provisions of Paragraph 335-3-14-.02(10)(b) shall not apply to stack heights in existence, or dispersion techniques implemented, prior to December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the Clean Air Act, which were constructed, or reconstructed or for which major modifications, as defined pursuant to Subparagraphs 335-3-14-.05(2)(d) and 335-3-14-.04(2)(b)1., were carried out after December 31, 1970.

(d) If any existing source, after appropriate application of the preceding limitations and provisions, is found to exceed or potentially exceed a NAAQS or PSD increment, when operating within previously established emission limitations, the emissions limitations applicable to that source shall be modified so as to eliminate and prevent the exceedance.

(e) If any new source or source modification, after appropriate application of the preceding limitations and

provisions, is predicted to exceed a NAAOS or PSD increment when evaluated under emission limitations consistent with other applicable rules and regulations, the emission limitations considered shall be deemed inadequate and different emission limits, based on air quality considerations, shall be made applicable.

(f) If any source provides a field study or fluid modeling demonstration proposing a GEP stack height greater than that allowed by Subdivision 335-3-16-.02(10)(a)5.(i) and 335-3-16-.02(10)(a)5.(ii), then the public will be notified of the availability of the study and provided the opportunity for a public hearing before any new or revised emission limitation or permit is approved.

(g) The actual stack height used or proposed by a source shall not be restricted in any manner by requirements of this Section.

Author: Richard E. Grusnick  
Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8  
History: Effective Date: December 28, 1993  
Amended:

335-3-16-.03 Applicability

(1) Except as exempted under item (2) below and elsewhere herein, the following sources are subject to the permitting requirements under this Administrative Code:

(a) Any major source as defined under Administrative Code R. 335-3-16-.01 of this chapter;

(b) Any source subject to a standard, limitation, or other requirement under ADEM Admin. Code 335-3-10 or 335-3-11 of this Administrative Code;

(c) Any affected source as defined under Administrative Code R. 335-3-16-.01 of this chapter;

(2) The following sources are exempt from the requirements of this chapter:

(a) Non-major sources subject to ADEM Admin. Code 335-3-10 or 335-3-11 of this Administrative Code prior to July 21, 1992;

(b) Non-major sources subject to ADEM Admin. Code 335-3-10 or 335-3-11 of this Administrative Code which have an applicability date after July 21, 1992 that have been exempted by the Administrator from the requirements of 40 CFR 70;

(c) Wood heaters subject to ADEM Admin. Code 335-3-10 of this Administrative Code and asbestos demolitions and renovation sources subject to ADEM Admin. Code 335-3-11 of this Administrative Code.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8

History: Effective Date: December 28, 1993

Amended:

### 335-3-16-.04 Permit Application Requirements

(1) Upon becoming subject to this Administrative Code, a source must submit an application, as described in this rule within 12 months. The Director may require some sources to submit their applications earlier than 12 months after the rules in this Chapter become applicable if it is determined that earlier submittal is necessary to satisfy the requirements in ADEM Admin. Code R. 335-3-16-.12(1) of this Administrative Code. The Department shall notify any emission source that must submit early applications at least one year in advance of the date the submittal is due.

(2) Sources subject to section 112 (g) or subject to preconstruction review under title I of the Act must apply for a permit under this Chapter within 12 months after commencing operation, except, when an existing permit issued under this chapter prohibits construction or a change in operation, a permit revision must be obtained before commencing operation.

(3) Renewal. An application for renewal shall be submitted at least six (6) months before the date of permit expiration, unless a longer period (not to exceed 18 months) is specified in the permit.

(4) Applications for initial phase II acid rain permits shall be submitted by January 1, 1996 for sulfur dioxide (SO<sub>2</sub>) and by January 1, 1998 for nitrogen oxides (NO<sub>x</sub>).

(5) Complete application. Unless the Department notifies the permit applicant in writing that the application is not complete, the application is considered complete 60 days after receipt by the Department. If, while processing the application, the Department determines that more information is needed to evaluate the application, the applicant must submit such information within 30 days or for such other reasonable time as set by a written request(s) by the Department.



(6) A source may operate without a permit under this Chapter between the date the application has been deemed complete and the date the final permit is issued, provided that the applicant submits any requested additional material by the deadline(s) specified by the Department.

(7) Duty to supplement or correct an application. A source must submit additional information to the Department to supplement or correct an application promptly after becoming aware of the need for additional or corrected information. Also, a source must supply to the Department additional information concerning any new requirements which have become applicable after a complete application has been filed but before a draft permit is released.

(8) Standard application form and required information. The following information shall be included in an application by a source for a permit under this chapter:

(a) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact:

(b) A description of the source's processes and products (by four-digit Standard Industrial Classification Code), including any processes and products associated with each alternate scenario that is identified by the source and a list of insignificant sources and the basis for the determination(s); (c) The following emissions-related information:

1. A list of all emissions of pollutants for which the source is considered to be major and a list of all emissions of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this Rule. The source shall submit additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to determine the amount of any permit fees owed under the fee schedule approved pursuant to ADEM Admin. Code 335-1-7-.04;

2. Identification and description of all points of emissions described in subparagraph (8)(c)1. of this rule in sufficient detail to establish the basis for fees and the applicability of the requirements of this chapter;

3. Emissions rates of all pollutants in tons per year (tpy) and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method, or alternative method approved by the Department's Director;
4. The following information to the extent it is needed to determine or regulate emissions: fuels to be used, rate of fuel use, raw materials that will be used in the production process, production rates, and operating schedules;
5. Identification and description of all air pollution control equipment and compliance monitoring devices or activities that will be used by the source;
6. Limitations that will be placed on the source's operation so as to affect emissions or any work practice standards that will be implemented, where applicable, for all regulated pollutants;
7. Other information that may be required to address other applicable requirements (including, but not limited to, information relating to stack height limitations developed pursuant to section 123 of the Act);
8. Calculations on which the information in items 1. through 7. above are based;
9. Exemptions
  - (i) Insignificant activities, including insignificant changes, shall be exempted from the provisions of this Chapter, provided they are listed in the permit application. Notice shall be sent to the Director in the event of insignificant changes to a specific emissions unit that increase potential emissions of criteria pollutants by less than 5 tons per year or any pollutant listed in Appendix G of ADEM Admin. Code Chap. 335-3-16 by less than 1,000 pounds per year and that are not identified on the list of insignificant changes in emissions as provided in ADEM Admin. Code R. 335-3-16-.01(o);
  - (ii) Trivial activities, including trivial changes, shall be exempted from all the provisions of this Chapter;
  - (d) The following air pollution control requirements:
    1. Citations and descriptions of all applicable statutory and administrative code requirements, and
    2. A description of or reference to any applicable test methods for determining compliance with each applicable statutory or administrative code requirement.

(e) Other information that may be required by the Department to enforce and implement other requirements of this chapter;

(f) An explanation of all proposed exemptions from otherwise applicable requirements;

(g) Additional information determined by the Department to be necessary to define alternative operating scenarios that are identified by the source pursuant to ADEM Admin. Code R. 335-3-16-.05(13);

(h) A compliance plan for the source that contains the following:

1. A description of the compliance status of the source with respect to all applicable requirements and a compliance schedule.

2. A statement that the source will continue to comply with all regulatory requirements that it is now in compliance with;

3. A statement that the source will, on a timely basis, meet such requirements that will become effective during the permit term unless a more detailed schedule is expressly required by the applicable requirement;

4. A narrative description of how the source will achieve compliance with requirements for which the source is not in compliance at the time of permit issuance with a compliance schedule for the source. Any schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. The compliance schedule shall be at least as stringent as any compliance schedule that is contained in any judicial consent decree or administrative order to which the source is subject. Any schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

5. A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.

6. The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(i) A compliance certification, including the following:

1. A certification of compliance with all applicable requirements by a responsible official consistent with paragraph ADEM Admin Code R. 335-3-16-.04(9) and section 114(a)(3) of the Act, as it relates to the enhanced monitoring requirements;

2. A statement of methods used for determining compliance, including a description of monitoring, record keeping, and reporting requirements and test methods;

3. A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by the underlying applicable requirement or by the Department; and

4. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(j) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans as required by regulations promulgated under title IV of the Act.

(9) Certification of truth, accuracy and completeness.

(a) Any application form, report, or compliance certification submitted pursuant to this Administrative Code shall contain certification by a responsible official of truth, accuracy, and completeness, except as provided in Subparagraph 335-3-16-.04(9)(b). This certification and any other certification required under this Chapter shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(b) Certification for completeness shall not be required for initial applications that will not be processed in the first year the regulations in this Chapter are effective. A certification for completeness for such applications shall be required when the Department begins processing the application and requests additional information.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8  
History: Effective Date: December 28, 1993  
Amended:

335-3-16-.05 Permit Content: All permits required under this Chapter shall include certain standard permit requirements. The permits shall contain the following:

(1) Applicable emissions limitations and standards and operational requirements and limitations necessary to assure compliance with all applicable requirements at the time of permit issuance. In addition, the permit shall include:

(a) A statement or reference to the origin and authority for each term or condition in the permit and any difference in form as compared to the applicable requirement under this Chapter upon which the term or condition is based; and

(b) A statement to the effect that where an applicable requirement of this chapter is more stringent than an applicable requirement of regulations promulgated under title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the Department.

(2) Duration of Operating Permits

(a) The Department shall issue permits for a fixed period of five years, except as provided in subparagraph (b) below.

(b) Solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act shall have a fixed term not to exceed 12 years. However, said permits shall be reviewed every five years.

(c) Permits which are issued for new emission units before the units become operational shall be effective for five years after operation of the unit commences.

(3) Monitoring and record keeping requirements

(a) Permits shall contain the following requirements with respect to monitoring:

1. All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act;

2. Where the applicable requirement does not require periodic testing or instrumental or non instrumental monitoring (e.g. record keeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that is representative of the source's compliance with the permit, as reported pursuant to subparagraph (3)(c), of this rule. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. In certain instances record keeping provisions may be sufficient to meet the requirements of this subparagraph of this rule; and

3. As necessary, information concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(b) With respect to record keeping, the permit shall incorporate all requirements of this chapter and require, where appropriate, the following:

1. Records of required monitoring information of the source that include the following:

(i) The date, place as defined in the permit, and time of all sampling or measurements;

(ii) The date(s) analyses were performed;

(iii) The company or entity that performed the analyses;

(iv) The analytical techniques or methods used;

(v) The results of all analyses; and

(vi) The operating conditions that existed at the time of sampling or measurement;

(vii) Retention of records of all required monitoring data and support information of the source for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit.

(c) Permits shall incorporate all reporting requirements of this chapter and require the following:

1. The source to submit reports to the Department of any required monitoring at least every 6 months. All instances of deviations from permit requirements must be clearly identified in said reports. All required reports must be certified by a responsible official consistent with ADEM Admin. Code 335-3-16-.04(9).

2. The source to report deviations from permit requirements within 2 working days of such deviations, including those attributable to upset conditions as defined in the permit, the probable cause of said deviations, and any corrective actions or preventive measures that were taken.

(4) Permits shall contain statements to the effect that emissions exceeding any allowances that the source lawfully holds under title IV of the Act or the regulations promulgated thereunder are prohibited. Furthermore, the following shall be applicable:

(a) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(b) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(c) Any such allowance shall be accounted for according to the procedures established in regulations promulgated pursuant to title IV of the Act.

(5) Permits shall include a severability clause for the purpose of continuation of a permit in the event a portion(s) of the permit is successfully challenged in a legal forum.

(6) Permits shall contain a provision that states that the source (permittee) must comply with all conditions of this administrative code: Noncompliance with a permit will constitute a violation of the Act and this administrative code and may result in an enforcement action: including but not limited to, permit termination, revocation and reissuance, or modification; or denial of a permit renewal application by the source.

(7) Permits shall contain a provision that states the source (permittee) shall not use as a defense in an enforcement action, that maintaining compliance with conditions of the permit would have required halting or reducing the permitted activity.

(8) Permits shall contain a provision that states that the permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the source (permittee) for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance will not stay any permit condition.

(9) Permits shall contain a provision that states that no property rights of any sort, or any exclusive privilege are conveyed through the issuance of the permit.

(10) Permits shall contain a provision that states that the source (permittee) shall furnish to the Department, within 30 days or for such other reasonable time as the Department may set, any information that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon receiving a specific request, the permittee shall also furnish to the Department copies of records required to be kept by the permit.

(11) Permits shall state that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(12) The permit shall contain a provision that quantifies the terms and conditions for reasonably anticipated alternative operating scenarios that were identified by the source in its application and are acceptable to the Department. The alternative operating scenarios terms and conditions shall:

(a) Require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;

(b) Ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this chapter.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8

History: Effective Date: December 28, 1993

Amended:

335-3-16-.06 Federally enforceable requirements



(a) All terms in a permit that are required to be part of a permit pursuant to the Act are federally enforceable by EPA, the Department and citizens in general. However, those provisions of a permit that are not required under the Act are considered to be state permit provisions and consequently, are not federally enforceable by EPA and citizens in general.

(b) Those provisions of a permit that are state provisions shall be separated from the federally enforceable terms. Such state provisions shall be clearly identified in the permit.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8

History: Effective Date: December 28, 1993

Amended:

335-3-16-.07 Compliance requirements: Permits shall contain the following elements with respect to compliance:

(1) Compliance certification, testing, monitoring, reporting, and record keeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports submitted by the source (permittee)) that is required in a permit shall contain a certification by a responsible official that meets the requirements of ADEM Admin Code R. 335-3-16-.04(9).

(2) Inspection and entry requirements that mandate that the permittee shall allow the Department or an authorized representative, upon presentation of credentials and other documents that may be required by law, to conduct the following:

(a) Enter upon the permittee's premises where a source is located or emissions-related activity is conducted, or where records must be kept pursuant to the conditions of a permit;

(b) Review and/or copy, at reasonable times, any records that must be kept pursuant to the conditions of a permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required pursuant to a permit; and

(d) Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements.

(3) A schedule of compliance consistent with ADEM Admin Code R. 335-3-16-.04(8)(h).

(4) Progress reports consistent with an applicable schedule of compliance and ADEM Admin Code R. 335-3-16-.04(8)(h), to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the Department. Such progress reports shall contain the following:

(a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and/or dates when such activities, milestones or compliance were achieved; and

(b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

(a) The frequency of submissions of compliance certifications, which shall be at least annually unless more frequent periods are specified according to the specific rule governing the source or required by the Department.

(b) A means for monitoring the compliance of the source with its emissions limitations, standards, and work practices in accordance with ADEM Admin Code R. 335-3-16-.05(3);

(c) A requirement that the compliance certification include the following:

1. The identification of each term or condition of the permit that is the basis of the certification;

2. The compliance status;

3. Whether compliance has been continuous or intermittent;

4. The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with ADEM Admin Code R. 335-3-16-.05(3); and

5. Such other facts as the Department may require to determine the compliance status of the source;

(d) A requirement that all compliance certifications be submitted to the Administrator as well as to the Department; and

(e) Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act.

(6) Such other provisions as the Department may require.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8

History: Effective Date: December 28, 1993

Amended:

335-3-16-.08 General Permits

(1) The Department may issue a general permit to any source category if it concludes that the category is appropriate for permitting on a generic basis after notice and opportunity for public participation provided under ADEM Admin Code R. 335-3-16-.15(4). No general permit may be issued for affected sources under the acid rain program unless otherwise provided in regulations promulgated under title IV of the Act.

(2) A general permit may be issued for a source category based upon an application from a source within the source category or upon the Department's own initiative. The same procedures for issuance of a general permit are applicable as for any other permit issued under this chapter.

(3) A general permit may be issued for the following purposes:

(a) to establish terms and conditions to implement applicable requirements for a source category;

(b) to establish terms and conditions to implement applicable requirements for specified categories of changes to permitted sources;

(c) to establish terms and conditions for new requirements that apply to sources with existing permits; and

(d) to establish federally-enforceable caps on emissions from sources in a specified category.

(4) The Department may issue a general permit if it finds that:

(a) there are several permittees or permit applicants who have the same or substantially similar operations, emissions, activities, or facilities;

(b) the permittees or permit applicants emit the same types of regulated air pollutants;

(c) the operations, emissions, activities, or facilities are subject to the same or similar standards, limitations, and operating requirements; and

(d) the operations, emissions, activities, or facilities are subject to the same or similar monitoring requirements.

(5) A general permit issued under this section shall identify criteria by which sources may qualify for the general permit. After a general permit has been issued, any source may submit a request to be covered under the permit.

(a) A request for coverage under a general permit shall identify the source and provide information sufficient to demonstrate that it falls within the source category covered by the general permit, together with any additional information that may be specified in the general permit.

(b) A final action approving a request for coverage under a general permit shall not require repeating the public participation procedures.

(6) A copy of the general permit, together with a list of sources approved for coverage under it, shall be kept on file for public review at the Department's office in Montgomery.

(7) If some, but not all, of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the source may apply for and receive coverage under the general permits for the operations, activities, and emissions that are so eligible. If the source is required under ADEM Admin Code R. 335-3-16-.04 to obtain a permit addressing the remainder of its operations, activities, and emissions, it may apply for and receive a permit that addresses specifically only those items not covered by general permits. In such a case, the source's permit shall identify all operations, activities, and emissions that are subject to general permits and incorporate those general permits by reference or use this for General Permits instead of (1) - (6) above

(8) If a source that is covered by a general permit is later determined to have not qualified for such general permit, the source shall have been operating without an operating permit.

Author: Richard E. Grusnick  
Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8  
History: Effective Date: December 28, 1993  
Amended:

335-3-16-.10

335-3-16-.09 Temporary sources

(1) One permit for sources which move at least once during term of permit: A single permit may be issued authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

(a) Conditions that will assure compliance with all applicable requirements at all authorized locations;

(b) Requirements that the owner or operator notify in writing the permitting authority at least ten days in advance of each change in location; and

(c) Conditions that assure compliance with all other provisions of this section.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, and 22-22A-8

History: Effective Date: December 28, 1993

Amended:

335-3-16-.10 Permit shield.

(1) Except as provided in this Rule, the Department may expressly include in an Operating Permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

(a) Such applicable requirements are included and are specifically identified in the permit; or

(b) The Department, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

(2) An Operating Permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(3) Nothing in this Rule or in any Operating Permit shall alter or affect the following:

(a) The provisions of section 303 of the Act (emergency orders), including the authority of the Administrator under that section:

(b) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance:

(c) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(d) The ability of EPA to obtain information from a source pursuant to section 114 of the Act.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, 22-22A-8

History: Effective Date: December 28, 1993

Amended:

### 335-3-16-.11 Exceptions to violations of emissions limits

(1) The Director may, in the operating permit, exempt on a case-by-case basis exceedances of emission limits which cannot reasonably be avoided, such as during periods of start-up, shut-down or load change.

#### (2) Emergency provision

(a) An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(b) Exceedances of emission limits during emergencies (as defined above) at a facility may be exempted from being violations provided that:

1. The permittee can identify the cause(s) of the emergency;

2. At the time of the emergency, the permitted facility was being properly operated;

3. During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit:

4. The permittee submitted notice of the emergency to the permitting authority within 2 working days of the time when emission limitations were exceeded due to the emergency. Such notice shall include those deviations attributable to upset conditions as defined in the permit, the probable cause of said deviations, and any corrective actions or preventive measures that were taken. Within 5 working days of the emergency, a written documentation what was reported in the notice of the emergency shall be submitted to the Department; and

5. The permittee immediately documented the emergency exceedance in an "Emergency Log", which shall be maintained for 5 years in a form suitable for inspection upon request by a representative of the Department.

(c) The Director shall be the sole determiner of whether an emergency has occurred.

(d) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, 22-22A-8

History: Effective Date: December 28, 1993

Amended:

335-3-16-.12 Permit Issuance

(1) Initial

(a) All major sources must be issued operating permits within 3 years of the date that EPA approves the Department's program.

(b) At least one-third of the permits for sources subject to this chapter must be issued each of the three years following EPA's approval of the Department's program.

(c) If the Department is granted interim approval, then the provisions of paragraphs (a) and (b) do not apply.

1. During each year of interim approval, at least 20% of the permits subject to this chapter must be issued. Thereafter, at least one-third of the remaining sources subject to this chapter must be issued each year.

2. If interim approval is granted, the emissions from the sources subject to this chapter that are permitted in the first three years of the program shall amount to 80% of the emissions for all sources subject to this chapter.

(d) Any application for a new source must be acted on within 18 months of receiving a complete application.

(2) Renewals.

(a) Applications for permit renewal shall be subject to the same procedural requirements, including those for public participation, and affected State and EPA review, that apply to initial permit issuance under this chapter.

(b) A source's right to operate shall terminate upon the expiration of its permit unless a timely and complete renewal application has been submitted at least six months, but not more than 18 months, before the date of expiration or the Department has taken final action approving the source's application for renewal by the expiration date.

(c) If a timely and complete application for a permit renewal is submitted, but the Department fails to take final action to issue or deny the renewal permit before the end of the term of the previous permit, then the permit shall not expire until the renewal permit has been issued or denied, and any permit shield granted for the permit shall continue in effect during that time.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, 22-22A-8

History: Effective Date: December 28, 1993

Amended:

335-3-16-.13 Permit Modifications or Amendments

(1) Administrative

(a) An administrative permit amendment is a permit revision that:

1. Corrects typographical errors;
2. Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
3. Requires more frequent monitoring or reporting by the permittee;



4. Incorporates a general permit into an Operating Permit.

5. Allows for a change in ownership or operational control of a source where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department;

6. Incorporates into a permit issued under this chapter the requirements from preconstruction review permits authorized under this Administrative Code, provided that the process used meets procedural requirements substantially equivalent to the requirements of ADEM Admin. Code R. 335-3-16-.12 and 335-3-16-.14 of this chapter that would be applicable to the change if it were subject to review as a permit modification, and compliance requirements substantially equivalent to those contained in ADEM Admin. Code R. 335-3-16-.05 through 335-3-16-.11 of this chapter; or

7. Incorporates any other type of change which the Department has determined as part of the approved permit program under this chapter to be similar to those in subparagraphs 1.-5. above.

(b) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under title IV of the Act.

(c) An administrative permit amendment may be made by the Department consistent with the following:

1. The Department shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this paragraph.

2. The Department shall submit a copy of the revised permit to the Administrator.

3. The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(2) Flexibility (i.e., Section 502 (B) 10 changes): Modifications which are not modifications under title I of the Act, that contravene an existing permit condition and do not exceed emissions allowable under the permit can be done without modifying the permit if:

1. Written notification is given that describes the proposed change, the date of the change, any change in emissions, and any term or condition of the permit which is no longer valid due to the change

2. Notice is given to the Department and EPA at least 7 days before the change is made.

(3) Minor permit modification procedures

(a) Criteria

1. Minor permit modification procedures may be used only for those permit modifications that:

(i) Do not violate any applicable requirement;

(ii) Do not involve significant changes to existing monitoring, reporting, or record keeping requirements in the permit;

(iii) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(iv) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

A. A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of title I; and

B. An alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the Act;

(v) Are not modifications under any provision of title I of the Act; and

(vi) Are not required by ADEM Admin. Code R. 335-3-16-.12 to be processed as a significant modification.

2. Notwithstanding Subparagraph 335-3-16-.13(3)(a) of this rule, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.

(b) Application. An application requesting the use of minor permit modification procedures shall meet the requirements of ADEM Admin. Code R. 335-3-16-.04(8) of this part relative to the modification and shall include the following:

1. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

2. The source's suggested draft permit;

3. Certification by a responsible official, consistent with ADEM Admin Code R. 335-3-16-.04(9), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

4. Completed forms for the Department to use to notify the Administrator and affected States as required under ADEM Admin Code R. 335-3-16-.15.

(c) EPA and affected State notification. Within 5 working days of receipt of a complete permit modification application, the Department shall notify the Administrator and affected States of the requested permit modification. The Department promptly shall send any notice of refusal to accept any recommendations made by the Administrator or the affected States to the Administrator.

(d) Timetable for issuance. The Department may not issue a final permit modification until after EPA's 45-day review period or until EPA has notified the Department that EPA will not object to issuance of the permit modification, whichever is first. Within 90 days of the Department's receipt of an application under minor permit modification procedures or 15 days after the end of the Administrator's 45-day review period under ADEM Admin Code R. 335-3-16-.15(3), whichever is later, the Department shall:

1. Issue the permit modification as proposed;

2. Deny the permit modification application;

3. Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or

4. Revise the draft permit modification and transmit to the Administrator the new proposed permit modification as required by ADEM Admin Code R. 335-3-16-.15(1) of this part.

(e) Source's ability to make change.

1. Ten days after the application has been submitted to the Department, the source may make the change for which they applied unless the change qualifies as a minor modification. After the source makes the change allowed by the preceding sentence, and until the Department takes any of the actions specified in ADEM Admin Code R. 335-3-16-.13(3)(d)1.-4., the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

2. If the Department notifies the source that the modification does not qualify as a minor modification within 10 days after receiving the application, then the source shall apply for the change as a significant modification.

(f) The permit shield under ADEM Admin. Code R. 335-3-16-.10 shall not extend to minor permit modifications.

(4) Significant Modifications. Modifications that are significant modifications under the ADEM Admin. Code R. 335-3-14-.04 or ADEM Admin. Code R. 335-3-14-.05 or are modifications under the NSPS or NESHAPS regulations must be incorporated in the Operating Permit using the requirements for sources initially applying for an Operating Permit, including those for applications, public participation, review by affected States, and review by EPA, as described in ADEM Admin. Code R. 335-3-16-.04 and .14.

(5) Reopening for cause.

(a) Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

1. Additional applicable requirements under the Act become applicable to a major source with a remaining permit term of 3 or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.

2. Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

3. The Department or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

4. The Administrator or the Department determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(b) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

(c) Reopenings under subparagraph 335-3-16-.13(5)(a) of this Rule shall not be initiated before a notice of such intent is provided to the source by the Department at least 30 days in advance of the date that the permit is to be reopened, except that the Department may provide a shorter time period in the case of an emergency.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, 22-22A-8

History: Effective Date: December 28, 1993

Amended:

#### 335-3-16-.14 Off-Permit Changes

(1) Any change at a source holding an operating permit which is not addressed or prohibited in the federally enforceable terms and conditions of the permit may be designated by the owner or operator as an off-permit change, and may be made without revision to the federally enforceable terms and conditions of the operating permit, provided that the change:

- (a) shall meet all applicable requirements;
- (b) does not violate any federally enforceable permit term or condition;
- (c) is not subject to any requirement or standard under title IV of the Clean Air Act; and
- (d) is not a modification under title I.

(2) Designation of a change as state-only affects only the federal requirements for processing of the change under the federal operating permit program. The owner or operator must comply with all applicable state permitting and preconstruction review requirements. Any change designated as state-only will be treated as permit revision under state permitting requirements and shall be processed in accordance with the administrative permit amendment provisions in ADEM 335-3-16-.13(1) or the minor permit modification provisions in ADEM 335-3-16-.13(3), except that the provisions of ADEM 335-3-16-.13(3)(d) shall not apply.

(3) The owner or operator of any permitted source who plans to make a change meeting the criteria set forth in this section may submit a request that the Director process the change application as an off-permit change, in accordance with paragraph (2) of this section.

(4) Any application pertaining to a change designated by the applicant as an off-permit change shall be submitted by the applicant to EPA in fulfillment of the obligation to provide written notice, provided, that no change meeting the criteria for an insignificant activity or trivial activity is subject to the procedures set forth in this section.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, 22-22A-8

History: Effective Date: December 28, 1993

Amended:

335-3-16-.15 Permit Review by EPA. Affected States and public.

#### (1) Transmission of information to EPA

(a) The Department shall submit each application, each proposed permit and each final permit to EPA. The Department may require the applicant to submit a copy of its application directly to EPA. The Department also shall submit a copy of the draft permit to the applicant at the same time that EPA is sent a copy.

(b) Upon agreement with EPA, the Department may submit a summary of the application instead of the full application.

(c) The Department shall keep 5 years of records of the information sent to EPA that is required in subparagraph 335-3-16-.14(1)(a) of this Rule.

(2) Review by Affected States

(a) The Department shall give notice to each Affected State of each draft permit on or before public notice, unless public notice is not required.

(b) The Department shall respond in writing its reasons for refusing to accept an affected State's or for refusing to accept the Administrator's recommendations.

(3) EPA objection

(a) If EPA objects in writing within 45 days of receipt of a proposed permit or prior to issuance of a final permit, the Department shall not issue the permit, except that the Department may issue a permit that is valid pursuant to Alabama's Air Pollution Control Act only. However, the Department shall advise the source that issuance of such permit shall not provide any protection from federal requirements.

(b) The objection must include the reasons for the objection and a description of the terms that the permit must include to respond to the objections. EPA must supply the applicant with a copy of the objection.

(c) Failure of the Department to do any of the following are also grounds for objection:

1. Comply with paragraphs (1) or (2) of this Rule.
2. Submit any information requested by EPA in writing necessary to review the permit
3. Process the permit under the significant permit modification procedures (unless the modification is minor)

(4) Public participation. Except for modifications qualifying for administrative or minor permit modification procedures, all permit proceedings, including initial permit issuance, significant modifications, and renewals, shall use the following procedures for public notice:

(a) Notice shall be given by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice and also to persons on a mailing list developed by the Department for persons desiring notice of permit action, including persons who have requested in writing to be on such a list.

(b) The notice shall identify the affected facility; the name and address of the permittee; the address of the Department; the activity or activities involved in the permit action; the emissions change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, including any compliance plan, monitoring and compliance certification report, except for information entitled to be kept confidential, and all other materials available to the Department that are relevant to the permit decision; a brief description of the comment procedures required by this chapter; and the time and place of any hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled).

(c) The Department shall provide at least 30 days for public comment and shall give notice of any public hearing at least 30 days in advance of the hearing; and

(d) The Department shall keep a record of the comments made during the public participation process.

Author: Richard E. Grusnick

Statutory Authority: Code of Alabama 1975, §§22-22A-4, 22-22A-5, 22-22A-6, 22-22A-8

History: Effective Date: December 28, 1993

Amended:





APPENDIX D

NONATTAINMENT AREAS

PM<sub>10</sub>

(Sub-County Designations)

None

Sulfur Dioxide

(Sub-County Designations)

None

Secondary

Gelbert-Lauderdale-Co.--(Tennessee  
Valley-Authority's-Gelbert-Steam-Plant  
area)

Ozone (Marginal)

(County-Wide Designations)

Jefferson County  
Shelby County



# Appendix G

## Clean Air Act Amendments of 1990 - List of Hazardous Air Pollutants

CAS Number	Chemical name
75070	Acetaldehyde
60355	Acetamide
75058	Acetonitrile
98862	Acetophenone
53963	2-Acetylaminofluorene
107028	Acrolein
79061	Acrylamide
79107	Acrylic acid
107131	Acrylonitrile
107051	Allyl chloride
92671	4-Aminobiphenyl
62533	Aniline
90040	o-Anisidine
1332214	Asbestos
71432	Benzene (including benzene from gasoline)
92875	Benzidine
98077	Benzotrichloride
100447	Benzyl chloride
92524	Biphenyl
117817	Bis(2-ethylhexyl)phthalate (DEHP)
542881	Bis(chloromethyl)ether
75252	Bromoform
106990	1,3-Butadiene
156627	Calcium cyanamide
105602	Caprolactam
133062	Captan
63252	Carbaryl
75150	Carbon disulfide
56235	Carbon tetrachloride
463581	Carbonyl sulfide
120809	Catechol
133904	Chloramben
57749	Chlordane
7782505	Chlorine
79118	Chloroacetic acid
532274	2-Chloroacetophenone
108907	Chlorobenzene
510156	Chlorobenzilate
67663	Chloroform
107302	Chloromethyl methyl ether
126998	Chloroprene
1319773	Cresols/Cresylic acid (isomers and mixture)
95487	o-Cresol
108394	m-Cresol
106445	p-Cresol
98828	Cumene
94757	2,4-D. salts and esters

<u>3547044</u>	<u>DDE</u>
<u>334883</u>	<u>Diazomethane</u>
<u>132649</u>	<u>Dibenzofurans</u>
<u>96128</u>	<u>1,2-Dibromo-3-chloropropane</u>
<u>84742</u>	<u>Dibutylphthalate</u>
<u>106467</u>	<u>1,4-Dichlorobenzene(p)</u>
<u>91941</u>	<u>3,3-Dichlorobenzidene</u>
<u>111444</u>	<u>Dichloroethylether (Bis(2-chloroethyl)ether)</u>
<u>542756</u>	<u>1,3-Dichloropropene</u>
<u>62737</u>	<u>Dichlorvos</u>
<u>111422</u>	<u>Diethanolamine</u>
<u>121697</u>	<u>N,N-Diethyl aniline (N,N-Dimethylaniline)</u>
<u>64675</u>	<u>Diethyl sulfate</u>
<u>119904</u>	<u>3,3-Dimethoxybenzidine</u>
<u>60117</u>	<u>Dimethyl aminoazobenzene</u>
<u>119937</u>	<u>3,3-Dimethyl benzidine</u>
<u>79447</u>	<u>Dimethyl carbamoyl chloride</u>
<u>68122</u>	<u>Dimethyl formamide</u>
<u>57147</u>	<u>1,1-Dimethyl hydrazine</u>
<u>131113</u>	<u>Dimethyl phthalate</u>
<u>77781</u>	<u>Dimethyl sulfate</u>
<u>534521</u>	<u>4,6-Dinitro-o-cresol, and salts</u>
<u>51285</u>	<u>2,4-Dinitrophenol</u>
<u>121142</u>	<u>2,4-Dinitrotoluene</u>
<u>123911</u>	<u>1,4-Dioxane (1,4-Diethyleneoxide)</u>
<u>122667</u>	<u>1,2-Diphenylhydrazine</u>
<u>106898</u>	<u>Epichlorohydrin (1-Chloro-2,3-epoxypropane)</u>
<u>106887</u>	<u>1,2-Epoxybutane</u>
<u>140885</u>	<u>Ethyl acrylate</u>
<u>100414</u>	<u>Ethyl benzene</u>
<u>51796</u>	<u>Ethyl carbamate (Urethane)</u>
<u>75003</u>	<u>Ethyl chloride (Chloroethane)</u>
<u>106934</u>	<u>Ethylene dibromide (Dibromoethane)</u>
<u>107062</u>	<u>Ethylenedichloride (1,2-Dichloroethane)</u>
<u>107211</u>	<u>Ethylene glycol</u>
<u>151564</u>	<u>Ethylene imine (Aziridine)</u>
<u>75218</u>	<u>Ethylene oxide</u>
<u>96457</u>	<u>Ethylene thiourea</u>
<u>75343</u>	<u>Ethylidenedichloride (1,1-Dichloroethane)</u>
<u>50000</u>	<u>Formaldehyde</u>
<u>76448</u>	<u>Heptachlor</u>
<u>118741</u>	<u>Hexachlorobenzene</u>
<u>87683</u>	<u>Hexachlorobutadiene</u>
<u>77474</u>	<u>Hexachlorocyclopentadiene</u>
<u>67721</u>	<u>Hexachloroethane</u>
<u>822060</u>	<u>Hexamethylene-1,6-diisocyanate</u>
<u>680319</u>	<u>Hexamethylphosphoramide</u>
<u>110543</u>	<u>Hexane</u>
<u>302012</u>	<u>Hydrazine</u>
<u>7647010</u>	<u>Hydrochloric acid</u>
<u>7664393</u>	<u>Hydrogen fluoride (Hydrofluoric acid)</u>
<u>123319</u>	<u>Hydroquinone</u>
<u>78591</u>	<u>Isophorone</u>
<u>58899</u>	<u>Lindane (all isomers)</u>

108316	<u>Maleic anhydride</u>
67561	<u>Methanol</u>
72435	<u>Methoxychlor</u>
74839	<u>Methyl bromide (Bromomethane)</u>
74873	<u>Methyl chloride (Chloromethane)</u>
71556	<u>Methylchloroform (1,1,1-Trichloroethane)</u>
78933	<u>Methyl ethyl ketone (2-Butanone)</u>
60344	<u>Methyl hydrazine</u>
74884	<u>Methyl iodide (Iodomethane)</u>
108101	<u>Methyl isobutyl ketone (Hexone)</u>
624839	<u>Methyl isocyanate</u>
80626	<u>Methyl methacrylate</u>
1634044	<u>Methyl tert butyl ether</u>
101144	<u>4,4-Methylene bis(2-chloroaniline)</u>
75092	<u>Methylene chloride (Dichloromethane)</u>
101688	<u>Methylene diphenyl diisocyanate (MDI)</u>
101779	<u>4,4-Methylenedianiline</u>
91203	<u>Naphthalene</u>
98953	<u>Nitrobenzene</u>
92933	<u>4-Nitrobiphenyl</u>
100027	<u>4-Nitrophenol</u>
79469	<u>2-Nitropropane</u>
684935	<u>N-Nitroso-N-methylurea</u>
62759	<u>N-Nitrosodimethylamine</u>
59892	<u>N-Nitrosomorpholine</u>
56382	<u>Parathion</u>
82688	<u>Pentachloronitrobenzene (Quintobenzene)</u>
87865	<u>Pentachlorophenol</u>
108952	<u>Phenol</u>
106503	<u>p-Phenylenediamine</u>
75445	<u>Phosgene</u>
7803512	<u>Phosphine</u>
7723140	<u>Phosphorus</u>
85449	<u>Phthalic anhydride</u>
1336363	<u>Polychlorinated biphenyls (Aroclors)</u>
1120714	<u>1,3-Propane sultone</u>
57578	<u>Beta-Propiolactone</u>
123386	<u>Propionaldehyde</u>
114261	<u>Propoxur (Baygon)</u>
78875	<u>Propylenedichloride (1,2-Dichloropropane)</u>
75569	<u>Propylene oxide</u>
75558	<u>2,2-Propylenimine (2-Methyl aziridine)</u>
91225	<u>Quinoline</u>
106514	<u>Quinone</u>
100425	<u>Styrene</u>
96093	<u>Styrene oxide</u>
1746016	<u>2,3,7,8-Tetrachlorodibenzo-p-dioxin</u>
79345	<u>1,1,2,2-Tetrachloroethane</u>
127184	<u>Tetrachloroethylene (Perchloroethylene)</u>
7550450	<u>Titanium tetrachloride</u>
108883	<u>Toluene</u>
95807	<u>2,4-Toluene diamine</u>
584849	<u>2,4-Toluene diisocyanate</u>
95534	<u>o-Toluidine</u>

8001352	<u>Toxaphene (chlorinated camphene)</u>
120821	<u>1,2,4-Trichlorobenzene</u>
79005	<u>1,1,2-Trichloroethane</u>
79016	<u>Trichloroethylene</u>
95954	<u>2,4,5-Trichlorophenol</u>
88062	<u>2,4,6-Trichlorophenol</u>
121448	<u>Triethylamine</u>
1582098	<u>Trifluralin</u>
540841	<u>2,2,4-Trimethylpentane</u>
108054	<u>Vinyl acetate</u>
593602	<u>Vinyl bromide</u>
75014	<u>Vinyl chloride</u>
75354	<u>Vinylidenechloride (1,1-Dichloroethylene)</u>
1330207	<u>Xylenes (isomers and mixture)</u>
95476	<u>o-Xylenes</u>
108383	<u>m-Xylenes</u>
106423	<u>p-Xylenes</u>
0	<u>Antimony Compounds</u>
0	<u>Arsenic Compounds (inorganic including arsine)</u>
0	<u>Beryllium Compounds</u>
0	<u>Cadmium Compounds</u>
0	<u>Chromium Compounds</u>
0	<u>Cobalt Compounds</u>
0	<u>Coke Oven Emissions</u>
0	<u>Cyanide Compounds *1</u>
0	<u>Glycol ethers *2</u>
0	<u>Lead Compounds</u>
0	<u>Manganese Compounds</u>
0	<u>Mercury Compounds</u>
0	<u>Fine mineral fibers *3</u>
0	<u>Nickel Compounds</u>
0	<u>Polycyclic Organic Matter *4</u>
0	<u>Radionuclides (including radon) *5</u>
0	<u>Selenium Compounds</u>

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

\*1 X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or Ca(CN)2

\*2 Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH2CH2)n-OR' where

n = 1, 2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure: R-

(OCH<sub>2</sub>CH)<sub>n</sub>-OH. Polymers are excluded from the glycol category.

\*3 Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

\*4 Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100-C.

\*5 A type of atom which spontaneously undergoes radioactive decay.